

Calendar No. 1093

110TH CONGRESS
2D SESSION

S. 3263

[Report No. 110–510]

To authorize appropriations for fiscal years 2009 through 2013 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 15, 2008

Mr. BIDEN (for himself, Mr. LUGAR, Mr. OBAMA, Mr. HAGEL, Mr. KERRY, Mr. CASEY, Mrs. BOXER, Mr. DURBIN, Mr. CARPER, Mrs. CLINTON, Mr. DODD, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

SEPTEMBER 26 (legislative day, SEPTEMBER 17), 2008

Reported by Mr. DODD, without amendment

A BILL

To authorize appropriations for fiscal years 2009 through 2013 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Enhanced Partnership
3 with Pakistan Act of 2008”.

4 **SEC. 2. FINDINGS.**

5 Congress makes the following findings:

6 (1) The people of Pakistan and the United
7 States have a long history of friendship and comity,
8 and the vital interests of both nations are well-
9 served by strengthening and deepening this friend-
10 ship.

11 (2) In February 2008, the people of Pakistan
12 elected a civilian government, reversing months of
13 political tension and intrigue, as well as mounting
14 popular concern over governance and their own
15 democratic reform and political development.

16 (3) A democratic, moderate, modernizing Paki-
17 stan would represent the wishes of that country’s
18 populace, and serve as a model to other countries
19 around the world.

20 (4) Pakistan is a major non-NATO ally of the
21 United States, and has been a valuable partner in
22 the battle against al Qaeda and the Taliban.

23 (5) The struggle against al Qaeda, the Taliban,
24 and affiliated terrorist groups has led to the deaths
25 of several thousand Pakistani civilians and members

1 of the security forces of Pakistan over the past 6
2 years.

3 (6) Since the terrorist attacks of September 11,
4 2001, more al Qaeda terrorist suspects have been
5 apprehended in Pakistan than in any other country,
6 including Khalid Sheikh Muhammad, Ramzi bin al-
7 Shibh, and Abu Faraj al-Libi.

8 (7) Despite the sacrifices and cooperation of the
9 security forces of Pakistan, the top leadership of al
10 Qaeda, as well as the leadership and rank-and-file of
11 affiliated terrorist groups, are believed to use Paki-
12 stan's Federally Administered Tribal Areas (FATA)
13 as a haven and a base from which to organize ter-
14 rorist actions in Pakistan and with global reach.

15 (8) According to a Government Accountability
16 Office Report, (GAO-08-622), "since 2003, the ad-
17 ministration's national security strategies and Con-
18 gress have recognized that a comprehensive plan
19 that includes all elements of national power—diplo-
20 matic, military, intelligence, development assistance,
21 economic, and law enforcement support—was needed
22 to address the terrorist threat emanating from the
23 FATA" and that such a strategy was also mandated
24 by section 7102(b)(3) of the Intelligence Reform and
25 Terrorism Prevention Act of 2004 (Public Law 108-

1 458; 22 U.S.C. 2656f note) and section 2042(b)(2)
2 of the Implementing the Recommendations of the 9/
3 11 Commission Act of 2007 (Public Law 110–53; 22
4 U.S.C. 2375 note).

5 (9) According to United States military sources
6 and unclassified intelligence reports, including the
7 July 2007 National Intelligence Estimate entitled,
8 “The Terrorist Threat to the U.S. Homeland”, the
9 Taliban, al Qaeda, and their Pakistani affiliates con-
10 tinue to use territory in Pakistan as a haven, re-
11 cruiting location, and rear base for violent actions in
12 both Afghanistan and Pakistan, as well as attacks
13 globally, and pose a threat to the United States
14 homeland.

15 (10) The toll of terrorist attacks, including sui-
16 cide bombs, on the people of Pakistan include thou-
17 sands of citizens killed and wounded across the
18 country, over 1,400 military and police forces killed
19 (including 700 since July 2007), and dozens of trib-
20 al, provincial, and national officials targeted and
21 killed, as well as the brazen assassination of former
22 prime minister Benazir Bhutto while campaigning in
23 Rawalpindi on December 27, 2007, and several at-
24 tempts on the life of President Pervaiz Musharraf,

1 and the rate of such attacks have grown consider-
2 ably over the past 2 years.

3 (11) The people of Pakistan and the United
4 States share many compatible goals, including—

5 (A) combating terrorism and violent radi-
6 calism, both inside Pakistan and elsewhere;

7 (B) solidifying democracy and the rule of
8 law in Pakistan;

9 (C) promoting the economic development
10 of Pakistan, both through the building of infra-
11 structure and the facilitation of increased trade;

12 (D) promoting the social and material well-
13 being of Pakistani citizens, particularly through
14 development of such basic services as public
15 education, access to potable water, and medical
16 treatment; and

17 (E) safeguarding the peace and security of
18 South Asia, including by facilitating peaceful
19 relations between Pakistan and its neighbors.

20 (12) According to consistent opinion research,
21 including that of the Pew Global Attitudes Survey
22 (December 28, 2007) and the International Repub-
23 lican Institute (January 29, 2008), many people in
24 Pakistan have historically viewed the relationship be-
25 tween the United States and Pakistan as a trans-

1 actional one, characterized by a heavy emphasis on
2 security issues with little attention to other matters
3 of great interest to citizens of Pakistan.

4 (13) The election of a civilian government in
5 Pakistan in February 2008 provides an opportunity,
6 after nearly a decade of military-dominated rule, to
7 place relations between Pakistan and the United
8 States on a new and more stable foundation.

9 (14) Both the Government of Pakistan and the
10 United States Government should seek to enhance
11 the bilateral relationship through additional multi-
12 faceted engagement in order to strengthen the foun-
13 dation for a consistent and reliable long-term part-
14 nership between the two countries.

15 **SEC. 3. DEFINITIONS.**

16 In this Act:

17 (1) APPROPRIATE CONGRESSIONAL COMMIT-
18 TEES.—The term “appropriate congressional com-
19 mittees” means the Committees on Appropriations
20 and Foreign Relations of the Senate and the Com-
21 mittees on Appropriations and Foreign Affairs of
22 the House of Representatives.

23 (2) COUNTERINSURGENCY.—The term
24 “counterinsurgency” means efforts to defeat orga-
25 nized movements that seek to overthrow the duly

1 constituted Governments of Pakistan and Afghani-
 2 stan through the use of subversion and armed con-
 3 flict.

4 (3) COUNTERTERRORISM.—The term
 5 “counterterrorism” means efforts to combat al
 6 Qaeda and other foreign terrorist organizations that
 7 are designated by the Secretary of State in accord-
 8 ance with section 219 of the Immigration and Na-
 9 tionality Act (8 U.S.C. 1189), or other individuals
 10 and entities engaged in terrorist activity or support
 11 for such activity.

12 (4) FATA.—The term “FATA” means the
 13 Federally Administered Tribal Areas of Pakistan.

14 (5) NWFP.—The term “NWFP” means the
 15 North West Frontier Province of Pakistan, which
 16 has Peshawar as its provincial capital.

17 (6) PAKISTAN-AFGHANISTAN BORDER AREAS.—
 18 The term “Pakistan-Afghanistan border areas” in-
 19 cludes the Pakistan regions known as NWFP,
 20 FATA, and parts of Balochistan in which the
 21 Taliban or Al Qaeda have traditionally found refuge.

22 (7) SECURITY-RELATED ASSISTANCE.—The
 23 term “security-related assistance” means—

1 (A) grant assistance to carry out section
2 23 of the Arms Export Control Act (22 U.S.C.
3 2763);

4 (B) assistance under chapter 2 of part II
5 of the Foreign Assistance Act of 1961 (22
6 U.S.C. 2311 et seq.);

7 (C) assistance under chapter 5 of part II
8 of the Foreign Assistance Act of 1961 (22
9 U.S.C. 2347 et seq.);

10 (D) any equipment, supplies, and training
11 provided pursuant to section 1206 of the Na-
12 tional Defense Authorization Act for Fiscal
13 Year 2006 (Public Law 109–163; 119 Stat.
14 3456); and

15 (E) any equipment, supplies, and training
16 provided pursuant to section 1206 of the Na-
17 tional Defense Authorization Act for Fiscal
18 Year 2008 (Public Law 110–181; 122 Stat.
19 368).

20 (8) SECURITY FORCES OF PAKISTAN.—The
21 term “security forces of Pakistan” means the mili-
22 tary, paramilitary, and intelligence services of the
23 Government of Pakistan, including the armed forces,
24 Inter-Services Intelligence Directorate, Intelligence

1 Bureau, police forces, Frontier Corps, and Frontier
2 Constabulary.

3 **SEC. 4. STATEMENT OF POLICY.**

4 It is the policy of the United States—

5 (1) to support the consolidation of democracy,
6 good governance, and rule of law in Pakistan;

7 (2) to affirm and build a sustained, long-term,
8 multifaceted relationship with Pakistan;

9 (3) to further the sustainable economic develop-
10 ment of Pakistan and the improvement of the living
11 conditions of its citizens by expanding United States
12 bilateral engagement with the Government of Paki-
13 stan, especially in areas of direct interest and impor-
14 tance to the daily lives of the people of Pakistan;

15 (4) to work with Pakistan and the countries
16 bordering Pakistan to facilitate peace in the region
17 and harmonious relations between the countries of
18 the region;

19 (5) to work with the Government of Pakistan to
20 prevent any Pakistani territory from being used as
21 a base or conduit for terrorist attacks in Pakistan,
22 Afghanistan, or elsewhere in the world;

23 (6) to work in close cooperation with the Gov-
24 ernment of Pakistan to coordinate military and
25 paramilitary action against terrorist targets;

1 (7) to work with the Government of Pakistan to
2 help bring peace, stability, and development to all
3 regions of Pakistan, especially those in the Pakistan-
4 Afghanistan border areas, including support for an
5 effective counterinsurgency strategy; and

6 (8) to expand people-to-people engagement be-
7 tween the United States and Pakistan, through in-
8 creased educational, technical, and cultural ex-
9 changes and other methods.

10 **SEC. 5. AUTHORIZATION OF FUNDS.**

11 (a) AUTHORIZATION.—There are authorized to be ap-
12 propriated to the President, for the purposes of providing
13 assistance to Pakistan under the Foreign Assistance Act
14 of 1961 (22 U.S.C. 2151 et seq.), the following amounts:

15 (1) For fiscal year 2009, up to \$1,500,000,000.

16 (2) For fiscal year 2010, up to \$1,500,000,000.

17 (3) For fiscal year 2011, up to \$1,500,000,000.

18 (4) For fiscal year 2012, up to \$1,500,000,000.

19 (5) For fiscal year 2013, up to \$1,500,000,000.

20 (b) SENSE OF CONGRESS ON ECONOMIC SUPPORT
21 FUNDS.—It is the sense of Congress that, subject to an
22 improving political and economic climate, there should be
23 authorized to be appropriated up to \$1,500,000,000 per
24 year for fiscal years 2014 through 2018 for the purpose

1 of providing assistance to Pakistan under the Foreign As-
2 sistance Act of 1961.

3 (c) SENSE OF CONGRESS ON SECURITY-RELATED
4 ASSISTANCE.—It is the sense of Congress that security-
5 related assistance to the Government of Pakistan should
6 be provided in close coordination with the Government of
7 Pakistan, designed to improve the Government’s capabili-
8 ties in areas of mutual concern, and maintained at a level
9 that will bring significant gains in pursuing the policies
10 set forth in paragraphs (5), (6), and (7) of section 4.

11 (d) USE OF FUNDS.—Funds appropriated pursuant
12 to the authorization of appropriations under this section
13 shall be used for projects intended to benefit the people
14 of Pakistan, including projects that promote—

15 (1) just and democratic governance, including—

16 (A) political pluralism, equality, and the
17 rule of law;

18 (B) respect for human and civil rights;

19 (C) independent, efficient, and effective ju-
20 dicial systems;

21 (D) transparency and accountability of all
22 branches of government and judicial pro-
23 ceedings; and

24 (E) anticorruption efforts among police,
25 civil servants, elected officials, and all levels of

1 government administration, including the mili-
2 tary;

3 (2) economic freedom, including—

4 (A) private sector growth and the sustain-
5 able management of natural resources;

6 (B) market forces in the economy; and

7 (C) worker rights, including the right to
8 form labor unions and legally enforce provisions
9 safeguarding the rights of workers and local
10 community stakeholders; and

11 (3) investments in people, particularly women
12 and children, including—

13 (A) broad-based public primary and sec-
14 ondary education and vocational training for
15 both boys and girls;

16 (B) the construction of roads, irrigation
17 channels, wells, and other physical infrastruc-
18 ture;

19 (C) agricultural development to ensure
20 food staples in times of severe shortage;

21 (D) quality public health, including med-
22 ical clinics with well trained staff serving rural
23 and urban communities; and

24 (E) public-private partnerships in higher
25 education to ensure a breadth and consistency

1 of Pakistani graduates to help strengthen the
2 foundation for improved governance and eco-
3 nomic vitality.

4 (e) PREFERENCE FOR BUILDING LOCAL CAPAC-
5 ITY.—The President is encouraged, as appropriate, to uti-
6 lize Pakistani firms and community and local nongovern-
7 mental organizations in Pakistan to provide assistance
8 under this section.

9 (f) AUTHORITY TO USE FUNDS FOR OPERATIONAL
10 AND AUDIT EXPENSES.—Up to 7 percent of the funds ap-
11 propriated for a fiscal year pursuant to the authorization
12 of appropriations under this section—

13 (1) may be used for administrative expenses of
14 Federal departments and agencies in connection
15 with the provision of assistance authorized by this
16 section; or

17 (2) may be made available to the Inspector
18 General of the United States Agency for Inter-
19 national Development to provide audits and program
20 reviews of projects funded pursuant to this section.

21 (g) USE OF FUNDS.—Funds appropriated or other-
22 wise made available to carry out this section shall be uti-
23 lized to the maximum extent possible as direct expendi-
24 tures for projects and programs, subject to existing report-
25 ing and notification requirements.

1 (h) NOTIFICATION REQUIREMENTS.—

2 (1) NOTICE OF ASSISTANCE FOR BUDGET SUP-
3 PORT.—The President shall notify Congress not
4 later than 15 days before providing any assistance
5 under this section as budgetary support to the Gov-
6 ernment of Pakistan or any element of such Govern-
7 ment.

8 (2) ANNUAL REPORT.—The President shall
9 submit to the appropriate congressional committees
10 a report on assistance provided under this section
11 during the most recent fiscal year. The report shall
12 describe—

13 (A) all expenditures under this section, by
14 region;

15 (B) the intended purpose for such assist-
16 ance, the strategy or plan with which it is
17 aligned, and a timeline for completion associ-
18 ated with such strategy or plan;

19 (C) a list of persons or entities who have
20 received funds in excess of \$25,000 to conduct
21 projects under this section during the period
22 covered by the report, and an assessment of the
23 effectiveness of the project or projects con-
24 ducted by each such person or entity;

1 (D) any shortfall in United States finan-
 2 cial, physical, technical, or human resources
 3 that hinder effective use and monitoring of such
 4 funds;

5 (E) any negative impact, including the ab-
 6 sorptive capacity of the region for which the re-
 7 sources are intended, of United States bilateral
 8 or multilateral assistance and recommendations
 9 for modification of funding, if any; and

10 (F) the amount of funds appropriated pur-
 11 suant to the authorization of appropriations
 12 under this section that were used during the re-
 13 porting period for administrative expenses or
 14 for audits and program reviews pursuant to the
 15 authority under subsection (f).

16 (i) SENSE OF CONGRESS ON FUNDING OF PRIOR-
 17 ITIES.—It is the sense of Congress that the Government
 18 of Pakistan should allocate a greater portion of its budget,
 19 consistent with its “Poverty Reduction Strategy Paper”,
 20 to the recurrent costs associated with education, health,
 21 and other priorities described in this section.

22 **SEC. 6. LIMITATION ON CERTAIN ASSISTANCE.**

23 (a) LIMITATION ON CERTAIN MILITARY ASSIST-
 24 ANCE.—Beginning in fiscal year 2010, no grant assistance
 25 to carry out section 23 of the Arms Export Control Act

1 (22 U.S.C. 2763) and no assistance under chapter 2 of
2 part II of the Foreign Assistance Act of 1961 (22 U.S.C.
3 2311 et seq.) may be provided to Pakistan in a fiscal year
4 until the Secretary of State makes the certification re-
5 quired under subsection (c).

6 (b) LIMITATION ON ARMS TRANSFERS.—Beginning
7 in fiscal year 2012, no letter of offer to sell major defense
8 equipment to Pakistan may be issued pursuant to the
9 Arms Export Control Act (22 U.S.C. 2751 et seq.) and
10 no license to export major defense equipment to Pakistan
11 may be issued pursuant to such Act in a fiscal year until
12 the Secretary of State makes the certification required
13 under subsection (c).

14 (c) CERTIFICATION.—The certification required by
15 this subsection is a certification to the appropriate con-
16 gressional committees by the Secretary of State, after con-
17 sultation with the Secretary of Defense and the Director
18 of National Intelligence, that the security forces of Paki-
19 stan—

20 (1) are making concerted efforts to prevent al
21 Qaeda and associated terrorist groups from oper-
22 ating in the territory of Pakistan;

23 (2) are making concerted efforts to prevent the
24 Taliban from using the territory of Pakistan as a

1 sanctuary from which to launch attacks within Af-
2 ghanistan; and

3 (3) are not materially interfering in the political
4 or judicial processes of Pakistan.

5 (d) WAIVER.—The Secretary of State may waive the
6 limitations in subsections (a) and (b) if the Secretary de-
7 termines it is in the national security interests of the
8 United States to provide such waiver.

9 (e) PRIOR NOTICE OF WAIVER.—A waiver pursuant
10 to subsection (d) may not be exercised until 15 days after
11 the Secretary of State provides to the appropriate congres-
12 sional committees written notice of the intent to issue such
13 waiver and the reasons therefor. The notice may be sub-
14 mitted in classified or unclassified form as necessary.

15 **SEC. 7. SENSE OF CONGRESS ON COALITION SUPPORT**
16 **FUNDS.**

17 It is the sense of Congress that—

18 (1) Coalition Support Funds are critical compo-
19 nents of the global fight against terrorism and the
20 primary support for military operations of the Gov-
21 ernment of Pakistan to destroy the terrorist threat
22 and close the terrorist safe haven, known or sus-
23 pected, in the FATA, the NWFP, and other regions
24 of Pakistan;

1 (2) despite the broad discretion Congress grant-
2 ed the Secretary of Defense in terms of managing
3 Coalition Support Funds, the Pakistan reimburse-
4 ment claims process for Coalition Support Funds re-
5 quires increased oversight and accountability, con-
6 sistent with the conclusions of the June 2008 report
7 of the United States Government Accountability Of-
8 fice (GAO-08-806); and

9 (3) in order to ensure that this significant
10 United States effort in support of countering ter-
11 rorism in Pakistan effectively ensures the intended
12 use of Coalition Support Funds, and to avoid redun-
13 dancy in other security assistance programs, such as
14 Foreign Military Financing and Foreign Military
15 Sales, more specific guidance should be generated,
16 and accountability delineated, for officials associated
17 with oversight of this program within the United
18 States Embassy in Pakistan, the United States Cen-
19 tral Command, the Department of Defense, the De-
20 partment of State, and the Office of Management
21 and Budget.

22 **SEC. 8. AFGHANISTAN-PAKISTAN BORDER STRATEGY.**

23 (a) DEVELOPMENT OF COMPREHENSIVE STRAT-
24 EGY.—The Secretary of State, in consultation with the
25 Secretary of Defense, the Director of National Intel-

1 ligence, and such other government officials as may be ap-
 2 propriate, shall develop a comprehensive, cross-border
 3 strategy for working with the Government of Pakistan, the
 4 Government of Afghanistan, NATO, and other like-mind-
 5 ed allies to best implement effective counterterrorism and
 6 counterinsurgency measures in and near the border areas
 7 of Pakistan and Afghanistan, especially in known or sus-
 8 pected safe havens such as Pakistan's FATA, the NWFP,
 9 parts of Balochistan, and other critical areas in the south
 10 and east border areas of Afghanistan.

11 (b) REPORT.—Not later than June 1, 2009, the Sec-
 12 retary of State shall submit to the appropriate congres-
 13 sional committees a detailed description of a comprehen-
 14 sive strategy for counterterrorism and counterinsurgency
 15 in the FATA, as well as proposed timelines and budgets
 16 for implementing the strategy.

17 **SEC. 9. SENSE OF CONGRESS.**

18 It is the sense of Congress that the United States
 19 should—

- 20 (1) recognize the bold political steps the Paki-
 21 stan electorate has taken during a time of height-
 22 ened sensitivity and tension in 2007 and 2008 to
 23 elect a new civilian government;
- 24 (2) seize this strategic opportunity in the inter-
 25 ests of Pakistan as well as in the national security

1 interests of the United States to expand its engage-
2 ment with the Government and people of Pakistan
3 in areas of particular interest and importance to the
4 people of Pakistan; and

5 (3) continue to build a responsible and recip-
6 rocal security relationship taking into account the
7 national security interests of the United States as
8 well as regional and national dynamics in Pakistan
9 to further strengthen and enable the position of
10 Pakistan as a major non-NATO ally.

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