

H.R. 807, to direct the Secretary of the Interior to conduct a special resource study to determine the feasibility and suitability of establishing a memorial to the Space Shuttle Columbia in the State of Texas and for its inclusion as a unit of the National Park System.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington DC 20510-6150, or by email to rachel_pasternack@energy.senate.gov.

For further information, please contact David Brooks at (202) 224-9863 or Rachel Pasternack at (202) Q24-0883.

COMMITTEE ON RULES AND ADMINISTRATION

Mrs. FEINSTEIN. Mr. President, I wish to announce that the Committee on Rules and Administration will meet on Wednesday, September 12, 2007, at 10 a.m., to conduct a hearing on the Nomination of Robert C. Tapella of Virginia, to be Public Printer, Government Printing Office.

For further information regarding this hearing, please contact Howard Gantman at the Rules and Administration Committee, 224-6352.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. REED. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, September 4, 2007 at 2 p.m. in executive session to continue to receive information relating to the treatment of detainees.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. REED. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 4, 2007, at 2 p.m., in room 419 of the Dirksen Senate Office Building, to hear testimony from the Government Accountability Office on the situation in Iraq.

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

PRIVILEGES OF THE FLOOR

Mrs. HUTCHISON. Mr. President, at this time I ask unanimous consent that Yvonne Stone, a Presidential management fellow assigned to the Appropriations Committee from the Department of Veterans Affairs and a staff member of the committee, be granted floor privileges for the duration of the debate on this bill.

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

Mr. CORNYN. Mr. President, I ask unanimous consent that a member of my staff, Leah McCoy, be granted the

privilege of the floor until November 29, 2007.

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

SMALL BUSINESS DISASTER RESPONSE AND LOAN IMPROVEMENT ACT OF 2007

On Friday, August 3, 2007, the Senate Passed S. 163, as amended, as follows:

S. 163

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Small Business Disaster Response and Loan Improvements Act of 2007”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Extension of program authority.

TITLE I—DISASTER PLANNING AND RESPONSE

- Sec. 101. Disaster loans to nonprofits.
- Sec. 102. Disaster loan amounts.
- Sec. 103. Small business development center portability grants.
- Sec. 104. Assistance to out-of-State businesses.
- Sec. 105. Outreach programs.
- Sec. 106. Small business bonding threshold.
- Sec. 107. Termination of program.
- Sec. 108. Increasing collateral requirements.
- Sec. 109. Public awareness of disaster declaration and application periods.
- Sec. 110. Consistency between Administration regulations and standard operating procedures.
- Sec. 111. Processing disaster loans.
- Sec. 112. Development and implementation of major disaster response plan.
- Sec. 113. Disaster planning responsibilities.
- Sec. 114. Additional authority for district offices of the Administration.
- Sec. 115. Assignment of employees of the Office of Disaster Assistance and Disaster Cadre.

TITLE II—DISASTER LENDING

- Sec. 201. Catastrophic national disaster declaration.
- Sec. 202. Private disaster loans.
- Sec. 203. Technical and conforming amendments.
- Sec. 204. Expedited disaster assistance loan program.
- Sec. 205. HUBZones.

TITLE III—DISASTER ASSISTANCE OVERSIGHT

- Sec. 301. Congressional oversight.

SEC. 2. DEFINITIONS.

In this Act—

(1) the terms “Administration” and “Administrator” mean the Small Business Administration and the Administrator thereof, respectively;

(2) the term “catastrophic national disaster” means a catastrophic national disaster declared under section 7(b)(11) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act;

(3) the term “declared disaster” means a major disaster or a catastrophic national disaster;

(4) the term “disaster area” means an area affected by a natural or other disaster, as determined for purposes of paragraph (1) or (2) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), during the period of such declaration;

(5) the term “disaster loan program of the Administration” means assistance under section 7(b) of the Small Business Act (15 U.S.C. 636(b));

(6) the term “disaster update period” means the period beginning on the date on which the President declares a major disaster or a catastrophic national disaster and ending on the date on which such declaration terminates;

(7) the term “major disaster” has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122);

(8) the term “small business concern” has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632); and

(9) the term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

SEC. 3. EXTENSION OF PROGRAM AUTHORITY.

(a) IN GENERAL.—Section 1 of the Act entitled “An Act to extend temporarily certain authorities of the Small Business Administration”, approved October 10, 2006 (Public Law 109-316; 120 Stat. 1742), is amended by striking “July 31, 2007” each place it appears and inserting “October 31, 2007”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on July 31, 2007.

TITLE I—DISASTER PLANNING AND RESPONSE

SEC. 101. DISASTER LOANS TO NONPROFITS.

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (3) the following:

“(4) LOANS TO NONPROFITS.—In addition to any other loan authorized by this subsection, the Administrator may make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator determines appropriate to a nonprofit organization located or operating in an area affected by a natural or other disaster, as determined under paragraph (1) or (2), or providing services to persons who have evacuated from any such area.”

SEC. 102. DISASTER LOAN AMOUNTS.

(a) INCREASED LOAN CAPS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (4), as added by this title, the following:

“(5) INCREASED LOAN CAPS.—

“(A) AGGREGATE LOAN AMOUNTS.—Except as provided in subparagraph (B), and notwithstanding any other provision of law, the aggregate loan amount outstanding and committed to a borrower under this subsection may not exceed \$2,000,000.

“(B) WAIVER AUTHORITY.—The Administrator may, at the discretion of the Administrator, increase the aggregate loan amount under subparagraph (A) for loans relating to a disaster to a level established by the Administrator, based on appropriate economic indicators for the region in which that disaster occurred.”

(b) DISASTER MITIGATION.—

(1) IN GENERAL.—Section 7(b)(1)(A) of the Small Business Act (15 U.S.C. 636(b)(1)(A)) is amended by inserting “of the aggregate costs of such damage or destruction (whether or not compensated for by insurance or otherwise)” after “20 per centum”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to a loan or guarantee made after the date of enactment of this Act.

(c) TECHNICAL AMENDMENTS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended—

(1) in the matter preceding paragraph (1), by striking “the Administration” and inserting “the Administration”;

(2) in paragraph (2)(A), by striking “Disaster Relief and Emergency Assistance Act” and inserting “Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) (in this subsection referred to as a ‘major disaster’)”; and

(3) in the undesignated matter at the end—
(A) by striking “, (2), and (4)” and inserting “and (2)”; and

(B) by striking “, (2), or (4)” and inserting “(2)”.

SEC. 103. SMALL BUSINESS DEVELOPMENT CENTER PORTABILITY GRANTS.

Section 21(a)(4)(C)(viii) of the Small Business Act (15 U.S.C. 648(a)(4)(C)(viii)) is amended—

(1) in the first sentence, by striking “as a result of a business or government facility down sizing or closing, which has resulted in the loss of jobs or small business instability” and inserting “due to events that have resulted or will result in, business or government facility downsizing or closing”; and

(2) by adding at the end “At the discretion of the Administrator, the Administrator may make an award greater than \$100,000 to a recipient to accommodate extraordinary occurrences having a catastrophic impact on the small business concerns in a community.”.

SEC. 104. ASSISTANCE TO OUT-OF-STATE BUSINESSES.

Section 21(b)(3) of the Small Business Act (15 U.S.C. 648(b)(3)) is amended—

(1) by striking “At the discretion” and inserting the following: “SMALL BUSINESS DEVELOPMENT CENTERS.—

“(A) IN GENERAL.—At the discretion”; and
(2) by adding at the end the following:

“(B) DURING DISASTERS.—

“(i) IN GENERAL.—At the discretion of the Administrator, the Administrator may authorize a small business development center to provide such assistance to small business concerns located outside of the State, without regard to geographic proximity, if the small business concerns are located in a disaster area declared under section 7(b)(2)(A).
“(ii) CONTINUITY OF SERVICES.—A small business development center that provides counselors to an area described in clause (i) shall, to the maximum extent practicable, ensure continuity of services in any State in which such small business development center otherwise provides services.

“(iii) ACCESS TO DISASTER RECOVERY FACILITIES.—For purposes of providing disaster recovery assistance under this subparagraph, the Administrator shall, to the maximum extent practicable, permit small business development center personnel to use any site or facility designated by the Administrator for use to provide disaster recovery assistance.”.

SEC. 105. OUTREACH PROGRAMS.

(a) IN GENERAL.—Not later than 30 days after the date of the declaration of a disaster area, the Administrator may establish a contracting outreach and technical assistance program for small business concerns which have had a primary place of business in, or other significant presence in, such disaster area.

(b) ADMINISTRATOR ACTION.—The Administrator may carry out subsection (a) by acting through—

(1) the Administration;

(2) the Federal agency small business officials designated under section 15(k)(1) of the Small Business Act (15 U.S.C. 644(k)(1)); or

(3) any Federal, State, or local government entity, higher education institution, procurement technical assistance center, or private nonprofit organization that the Admin-

istrator may determine appropriate, upon conclusion of a memorandum of understanding or assistance agreement, as appropriate, with the Administrator.

SEC. 106. SMALL BUSINESS BONDING THRESHOLD.

(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law, for any procurement related to a major disaster, the Administrator may, upon such terms and conditions as the Administrator may prescribe, guarantee and enter into commitments to guarantee any surety against loss resulting from a breach of the terms of a bid bond, payment bond, performance bond, or bonds ancillary thereto, by a principal on any total work order or contract amount at the time of bond execution that does not exceed \$5,000,000.

(b) INCREASE OF AMOUNT.—Upon request of the head of any Federal agency other than the Administration involved in reconstruction efforts in response to a major disaster, the Administrator may guarantee and enter into a commitment to guarantee any security against loss under subsection (a) on any total work order or contract amount at the time of bond execution that does not exceed \$10,000,000.

SEC. 107. TERMINATION OF PROGRAM.

Section 711(c) of the Small Business Competitive Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended by inserting after “January 1, 1989” the following: “, and shall terminate on the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2007”.

SEC. 108. INCREASING COLLATERAL REQUIREMENTS.

Section 7(c)(6) of the Small Business Act (15 U.S.C. 636(c)(6)) is amended by striking “\$10,000 or less” and inserting “\$14,000 or less (or such higher amount as the Administrator determines appropriate in the event of a catastrophic national disaster declared under subsection (b)(11))”.

SEC. 109. PUBLIC AWARENESS OF DISASTER DECLARATION AND APPLICATION PERIODS.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (5), as added by this Act, the following:

“(6) COORDINATION WITH FEMA.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, for any disaster (including a catastrophic national disaster) declared under this subsection or major disaster, the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall ensure, to the maximum extent practicable, that all application periods for disaster relief under this Act correspond with application deadlines established under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), or as extended by the President.

“(B) DEADLINES.—Notwithstanding any other provision of law, not later than 10 days before the closing date of an application period for a major disaster (including a catastrophic national disaster), the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report that includes—

“(i) the deadline for submitting applications for assistance under this Act relating to that major disaster;

“(ii) information regarding the number of loan applications and disbursements processed by the Administrator relating to that major disaster for each day during the period

beginning on the date on which that major disaster was declared and ending on the date of that report; and

“(iii) an estimate of the number of potential applicants that have not submitted an application relating to that major disaster.

“(7) PUBLIC AWARENESS OF DISASTERS.—If a disaster (including a catastrophic national disaster) is declared under this subsection, the Administrator shall make every effort to communicate through radio, television, print, and web-based outlets, all relevant information needed by disaster loan applicants, including—

“(A) the date of such declaration;

“(B) cities and towns within the area of such declaration;

“(C) loan application deadlines related to such disaster;

“(D) all relevant contact information for victim services available through the Administration (including links to small business development center websites);

“(E) links to relevant Federal and State disaster assistance websites, including links to websites providing information regarding assistance available from the Federal Emergency Management Agency;

“(F) information on eligibility criteria for Administration loan programs, including where such applications can be found; and

“(G) application materials that clearly state the function of the Administration as the Federal source of disaster loans for homeowners and renters.”.

(b) MARKETING AND OUTREACH.—Not later than 90 days after the date of enactment of this Act, the Administrator shall create a marketing and outreach plan that—

(1) encourages a proactive approach to the disaster relief efforts of the Administration;

(2) makes clear the services provided by the Administration, including contact information, application information, and timelines for submitting applications, the review of applications, and the disbursement of funds;

(3) describes the different disaster loan programs of the Administration, including how they are made available and the eligibility requirements for each loan program;

(4) provides for regional marketing, focusing on disasters occurring in each region before the date of enactment of this Act, and likely scenarios for disasters in each such region; and

(5) ensures that the marketing plan is made available at small business development centers and on the website of the Administration.

SEC. 110. CONSISTENCY BETWEEN ADMINISTRATION REGULATIONS AND STANDARD OPERATING PROCEDURES.

(a) IN GENERAL.—The Administrator shall, promptly following the date of enactment of this Act, conduct a study of whether the standard operating procedures of the Administration for loans offered under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) are consistent with the regulations of the Administration for administering the disaster loan program.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administration shall submit to Congress a report containing all findings and recommendations of the study conducted under subsection (a).

SEC. 111. PROCESSING DISASTER LOANS.

(a) AUTHORITY FOR QUALIFIED PRIVATE CONTRACTORS TO PROCESS DISASTER LOANS.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (7), as added by this Act, the following:

“(8) AUTHORITY FOR QUALIFIED PRIVATE CONTRACTORS.—

“(A) DISASTER LOAN PROCESSING.—The Administrator may enter into an agreement with a qualified private contractor, as determined by the Administrator, to process loans under this subsection in the event of a major disaster or a catastrophic national disaster declared under paragraph (11), under which the Administrator shall pay the contractor a fee for each loan processed.

“(B) LOAN LOSS VERIFICATION SERVICES.—The Administrator may enter into an agreement with a qualified lender or loss verification professional, as determined by the Administrator, to verify losses for loans under this subsection in the event of a major disaster or a catastrophic national disaster declared under paragraph (11), under which the Administrator shall pay the lender or verification professional a fee for each loan for which such lender or verification professional verifies losses.”

(b) COORDINATION OF EFFORTS BETWEEN THE ADMINISTRATOR AND THE INTERNAL REVENUE SERVICE TO EXPEDITE LOAN PROCESSING.—The Administrator and the Commissioner of Internal Revenue shall, to the maximum extent practicable, ensure that all relevant and allowable tax records for loan approval are shared with loan processors in an expedited manner, upon request by the Administrator.

SEC. 112. DEVELOPMENT AND IMPLEMENTATION OF MAJOR DISASTER RESPONSE PLAN.

(a) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the Administrator shall—

(1) by rule, amend the 2006 Atlantic hurricane season disaster response plan of the Administration (in this section referred to as the “disaster response plan”) to apply to major disasters; and

(2) submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives detailing the amendments to the disaster response plan.

(b) CONTENTS.—The report required under subsection (a)(2) shall include—

(1) any updates or modifications made to the disaster response plan since the report regarding the disaster response plan submitted to Congress on July 14, 2006;

(2) a description of how the Administrator plans to utilize and integrate District Office personnel of the Administration in the response to a major disaster, including information on the utilization of personnel for loan processing and loan disbursement;

(3) a description of the disaster scalability model of the Administration and on what basis or function the plan is scaled;

(4) a description of how the agency-wide Disaster Oversight Council is structured, which offices comprise its membership, and whether the Associate Deputy Administrator for Entrepreneurial Development of the Administration is a member;

(5) a description of how the Administrator plans to coordinate the disaster efforts of the Administration with State and local government officials, including recommendations on how to better incorporate State initiatives or programs, such as State-administered bridge loan programs, into the disaster response of the Administration;

(6) recommendations, if any, on how the Administration can better coordinate its disaster response operations with the operations of other Federal, State, and local entities;

(7) any surge plan for the disaster loan program of the Administration in effect on or after August 29, 2005 (including surge plans for loss verification, loan processing, mail-room, customer service or call center operations, and a continuity of operations plan);

(8) the number of full-time equivalent employees and job descriptions for the planning and disaster response staff of the Administration;

(9) the in-service and preservice training procedures for disaster response staff of the Administration;

(10) information on the logistical support plans of the Administration (including equipment and staffing needs, and detailed information on how such plans will be scalable depending on the size and scope of the major disaster;

(11) a description of the findings and recommendations of the Administrator, if any, based on a review of the response of the Administration to Hurricane Katrina of 2005, Hurricane Rita of 2005, and Hurricane Wilma of 2005; and

(12) a plan for how the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, will coordinate the provision of accommodations and necessary resources for disaster assistance personnel to effectively perform their responsibilities in the aftermath of a major disaster.

(c) EXERCISES.—Not later than 6 months after the date of the submission of the report under subsection (a)(2), the Administrator shall develop and execute simulation exercises to demonstrate the effectiveness of the amended disaster response plan required under this section.

SEC. 113. DISASTER PLANNING RESPONSIBILITIES.

(a) ASSIGNMENT OF SMALL BUSINESS ADMINISTRATION DISASTER PLANNING RESPONSIBILITIES.—The Administrator shall specifically assign the disaster planning responsibilities described in subsection (b) to an employee of the Administration who—

(1) is not an employee of the Office of Disaster Assistance of the Administration;

(2) shall report directly to the Administrator; and

(3) has a background and expertise demonstrating significant experience in the area of disaster planning.

(b) RESPONSIBILITIES.—The responsibilities described in this subsection are—

(1) creating and maintaining the comprehensive disaster response plan of the Administration;

(2) ensuring in-service and pre-service training procedures for the disaster response staff of the Administration;

(3) coordinating and directing Administration training exercises, including mock disaster responses, with other Federal agencies; and

(4) other responsibilities, as determined by the Administrator.

(c) REPORT.—Not later than 30 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report containing—

(1) a description of the actions of the Administrator to assign an employee under subsection (a);

(2) information detailing the background and expertise of the employee assigned under subsection (a); and

(3) information on the status of the implementation of the responsibilities described in subsection (b).

SEC. 114. ADDITIONAL AUTHORITY FOR DISTRICT OFFICES OF THE ADMINISTRATION.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (8), as added by this Act, the following:

“(9) USE OF DISTRICT OFFICES.—In the event of a major disaster, the Administrator may

authorize a district office of the Administration to process loans under paragraph (1) or (2).”

(b) DESIGNATION.—

(1) IN GENERAL.—The Administrator may designate an employee in each district office of the Administration to act as a disaster loan liaison between the disaster processing center and applicants under the disaster loan program of the Administration.

(2) RESPONSIBILITIES.—Each employee designated under paragraph (1) shall—

(A) be responsible for coordinating and facilitating communications between applicants under the disaster loan program of the Administration and disaster loan processing staff regarding documentation and information required for completion of an application; and

(B) provide information to applicants under the disaster loan program of the Administration regarding additional services and benefits that may be available to such applicants to assist with recovery.

(3) OUTREACH.—In providing outreach to disaster victims following a declared disaster, the Administrator shall make disaster victims aware of—

(A) any relevant employee designated under paragraph (1); and

(B) how to contact that employee.

SEC. 115. ASSIGNMENT OF EMPLOYEES OF THE OFFICE OF DISASTER ASSISTANCE AND DISASTER CADRE.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (9), as added by this Act, the following:

“(10) DISASTER ASSISTANCE EMPLOYEES.—

“(A) IN GENERAL.—In carrying out this section, the Administrator may, where practicable, ensure that the number of full-time equivalent employees—

“(i) in the Office of the Disaster Assistance is not fewer than 800; and

“(ii) in the Disaster Cadre of the Administration is not fewer than 750.

“(B) REPORT.—In carrying out this subsection, if the number of full-time employees for either the Office of Disaster Assistance or the Disaster Cadre of the Administration is below the level described in subparagraph (A) for that office, not later than 21 days after the date on which that staffing level decreased below the level described in subparagraph (A), the Administrator shall submit to the Committee on Appropriations and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Appropriations and Committee on Small Business of the House of Representatives, a report—

“(i) detailing staffing levels on that date;

“(ii) requesting, if practicable and determined appropriate by the Administrator, additional funds for additional employees; and

“(iii) containing such additional information, as determined appropriate by the Administrator.”

TITLE II—DISASTER LENDING

SEC. 201. CATASTROPHIC NATIONAL DISASTER DECLARATION.

Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting immediately after paragraph (10), as added by this Act, the following:

“(11) CATASTROPHIC NATIONAL DISASTERS.—

“(A) IN GENERAL.—The President may make a catastrophic national disaster declaration in accordance with this paragraph.

“(B) PROMULGATION OF RULES.—

“(i) IN GENERAL.—Not later than 6 months after the date of enactment of this paragraph, the Administrator, with the concurrence of the Secretary of Homeland Security

and the Administrator of the Federal Emergency Management Agency, shall promulgate regulations establishing a threshold for a catastrophic national disaster declaration.

“(ii) CONSIDERATIONS.—In promulgating the regulations required under clause (i), the Administrator shall establish a threshold that—

“(I) is similar in size and scope to the events relating to the terrorist attacks of September 11, 2001, and Hurricane Katrina of 2005;

“(II) requires that the President declares a major disaster before making a catastrophic national disaster declaration under this paragraph;

“(III) requires consideration of—

“(aa) the dollar amount per capita of damage to the State, its political subdivisions, or a region;

“(bb) the number of small business concerns damaged, physically or economically, as a direct result of the event;

“(cc) the number of individuals and households displaced from their predisaster residences by the event;

“(dd) the severity of the impact on employment rates in the State, its political subdivisions, or a region;

“(ee) the anticipated length and difficulty of the recovery process;

“(ff) whether the events leading to the relevant major disaster declaration are of an unusually large and calamitous nature that is orders of magnitude larger than for an average major disaster; and

“(gg) any other factor determined relevant by the Administrator.

“(C) AUTHORIZATION.—If the President makes a catastrophic national disaster declaration under this paragraph, the Administrator may make such loans under this paragraph (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator determines appropriate to small business concerns located anywhere in the United States that are economically adversely impacted as a result of that catastrophic national disaster.

“(D) LOAN TERMS.—A loan under this paragraph shall be made on the same terms as a loan under paragraph (2).”

SEC. 202. PRIVATE DISASTER LOANS.

(a) IN GENERAL.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

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

“(c) PRIVATE DISASTER LOANS.—

“(1) DEFINITIONS.—In this subsection—

“(A) the term ‘disaster area’ means any area for which the President declared a major disaster (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) that subsequently results in the President making a catastrophic national disaster declaration under subsection (b)(11);

“(B) the term ‘eligible small business concern’ means a business concern that is—

“(i) a small business concern, as defined in this Act; or

“(ii) a small business concern, as defined in section 103 of the Small Business Investment Act of 1958; and

“(C) the term ‘qualified private lender’ means any privately-owned bank or other lending institution that the Administrator determines meets the criteria established under paragraph (9).

“(2) AUTHORIZATION.—The Administrator may guarantee timely payment of principal and interest, as scheduled on any loan issued by a qualified private lender to an eligible

small business concern located in a disaster area.

“(3) USE OF LOANS.—A loan guaranteed by the Administrator under this subsection may be used for any purpose authorized under subsection (b).

“(4) ONLINE APPLICATIONS.—

“(A) ESTABLISHMENT.—The Administrator may establish, directly or through an agreement with another entity, an online application process for loans guaranteed under this subsection.

“(B) OTHER FEDERAL ASSISTANCE.—The Administrator may coordinate with the head of any other appropriate Federal agency so that any application submitted through an online application process established under this paragraph may be considered for any other Federal assistance program for disaster relief.

“(C) CONSULTATION.—In establishing an online application process under this paragraph, the Administrator shall consult with appropriate persons from the public and private sectors, including private lenders.

“(5) MAXIMUM AMOUNTS.—

“(A) GUARANTEE PERCENTAGE.—The Administrator may guarantee not more than 85 percent of a loan under this subsection.

“(B) LOAN AMOUNTS.—The maximum amount of a loan guaranteed under this subsection shall be \$2,000,000.

“(6) LOAN TERM.—The longest term of a loan for a loan guaranteed under this subsection shall be—

“(A) 15 years for any loan that is issued without collateral; and

“(B) 25 years for any loan that is issued with collateral.

“(7) FEES.—

“(A) IN GENERAL.—The Administrator may not collect a guarantee fee under this subsection.

“(B) ORIGINATION FEE.—The Administrator may pay a qualified private lender an origination fee for a loan guaranteed under this subsection in an amount agreed upon in advance between the qualified private lender and the Administrator.

“(8) DOCUMENTATION.—A qualified private lender may use its own loan documentation for a loan guaranteed by the Administrator, to the extent authorized by the Administrator. The ability of a lender to use its own loan documentation for a loan guaranteed under this subsection shall not be considered part of the criteria for becoming a qualified private lender under the regulations promulgated under paragraph (9).

“(9) IMPLEMENTATION REGULATIONS.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2007, the Administrator shall issue final regulations establishing permanent criteria for qualified private lenders.

“(B) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of the Small Business Disaster Response and Loan Improvements Act of 2007, the Administrator shall submit a report on the progress of the regulations required by subparagraph (A) to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

“(10) AUTHORIZATION OF APPROPRIATIONS.—

“(A) IN GENERAL.—Amounts necessary to carry out this subsection shall be made available from amounts appropriated to the Administration to carry out subsection (b).

“(B) AUTHORITY TO REDUCE INTEREST RATES.—Funds appropriated to the Administration to carry out this subsection, may be used by the Administrator, to the extent available, to reduce the rate of interest for any loan guaranteed under this subsection by not more than 3 percentage points.

“(11) PURCHASE OF LOANS.—The Administrator may enter into an agreement with a qualified private lender to purchase any loan issued under this subsection.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to disasters declared under section 7(b)(2) of the Small Business Act (631 U.S.C. 636(b)(2)) before, on, or after the date of enactment of this Act.

SEC. 203. TECHNICAL AND CONFORMING AMENDMENTS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) in section 4(c)—

(A) in paragraph (1), by striking “7(c)(2)” and inserting “7(d)(2)”; and

(B) in paragraph (2)—

(i) by striking “7(c)(2)” and inserting “7(d)(2)”; and

(ii) by striking “7(e),”;

(2) in section 7(b), in the undesignated matter following paragraph (3)—

(A) by striking “That the provisions of paragraph (1) of subsection (c)” and inserting “That the provisions of paragraph (1) of subsection (d)”; and

(B) by striking “Notwithstanding the provisions of any other law the interest rate on the Administration’s share of any loan made under subsection (b) except as provided in subsection (c),” and inserting “Notwithstanding any other provision of law, and except as provided in subsection (d), the interest rate on the Administration’s share of any loan made under subsection (b)”.

SEC. 204. EXPEDITED DISASTER ASSISTANCE LOAN PROGRAM.

(a) DEFINITIONS.—In this section—

(1) the term “immediate disaster assistance” means assistance provided during the period beginning on the date on which the President makes a catastrophic disaster declaration under paragraph (11) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act, and ending on the date that an impacted small business concern is able to secure funding through insurance claims, Federal assistance programs, or other sources; and

(2) the term “program” means the expedited disaster assistance business loan program established under subsection (b).

(b) CREATION OF PROGRAM.—The Administrator shall take such administrative action as is necessary to establish and implement an expedited disaster assistance business loan program to provide small business concerns with immediate disaster assistance under paragraph (11) of section 7(b) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act.

(c) CONSULTATION REQUIRED.—In establishing the program, the Administrator shall consult with—

(1) appropriate personnel of the Administration (including District Office personnel of the Administration);

(2) appropriate technical assistance providers (including small business development centers);

(3) appropriate lenders and credit unions;

(4) the Committee on Small Business and Entrepreneurship of the Senate; and

(5) the Committee on Small Business of the House of Representatives.

(d) RULES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall issue rules in final form establishing and implementing the program in accordance with this section. Such rules shall apply as provided for in this section, beginning 90 days after their issuance in final form.

(2) CONTENTS.—The rules promulgated under paragraph (1) shall—

(A) identify whether appropriate uses of funds under the program may include—

(i) paying employees;
 (ii) paying bills and other financial obligations;
 (iii) making repairs;
 (iv) purchasing inventory;
 (v) restarting or operating a small business concern in the community in which it was conducting operations prior to the declared disaster, or to a neighboring area, county, or parish in the disaster area; or
 (vi) covering additional costs until the small business concern is able to obtain funding through insurance claims, Federal assistance programs, or other sources; and
 (B) set the terms and conditions of any loan made under the program, subject to paragraph (3).

(3) TERMS AND CONDITIONS.—A loan made by the Administration under this section—
 (A) shall be for not more than \$150,000;
 (B) shall be a short-term loan, not to exceed 180 days, except that the Administrator may extend such term as the Administrator determines necessary or appropriate on a case-by-case basis;

(C) shall have an interest rate not to exceed 1 percentage point above the prime rate of interest that a private lender may charge;
 (D) shall have no prepayment penalty;
 (E) may only be repaid to a borrower that meets the requirements for a loan under section 7(b) of the Small Business Act (15 U.S.C. 636(b));
 (F) may be refinanced as part of any subsequent disaster assistance provided under section 7(b) of the Small Business Act;

(G) may receive expedited loss verification and loan processing, if the applicant is—
 (i) a major source of employment in the disaster area (which shall be determined in the same manner as under section 7(b)(3)(B) of the Small Business Act (15 U.S.C. 636(b)(3)(B))); or

(ii) vital to recovery efforts in the region (including providing debris removal services, manufactured housing, or building materials); and
 (H) shall be subject to such additional terms as the Administrator determines necessary or appropriate.

(e) REPORT TO CONGRESS.—Not later than 5 months after the date of enactment of this Act, the Administrator shall report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives on the progress of the Administrator in establishing the program.

(f) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as are necessary to carry out this section.

SEC. 205. HUBZONES.
 (a) IN GENERAL.—Section 3(p) of the Small Business Act (15 U.S.C. 632(p)) is amended—
 (1) in paragraph (1)—
 (A) in subparagraph (D), by striking “or”;
 (B) in subparagraph (E), by striking the period at the end and inserting a semicolon; and
 (C) by adding at the end the following:
 “(F) areas in which the President has declared a major disaster (as that term is defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)) as a result of Hurricane Katrina of August 2005 or Hurricane Rita of September 2005, during the time period described in paragraph (8); or
 “(G) catastrophic national disaster areas.”;

(2) in paragraph (4), by adding at the end the following:
 “(E) CATASTROPHIC NATIONAL DISASTER AREA.—
 “(i) IN GENERAL.—The term ‘catastrophic national disaster area’ means an area—

“created since the previous report under paragraph (1);
 (B) the weekly average lending volume, in number of loans and dollars, and the percent by which each category has increased or decreased since the previous report under paragraph (1);
 (C) the amount of funding spent over the month for loans, both in appropriations and program level, and the percent by which each category has increased or decreased since the previous report under paragraph (1);
 (D) the amount of funding available for loans, both in appropriations and program level, and the percent by which each category has increased or decreased since the previous report under paragraph (1), noting the source of any additional funding;
 (E) an estimate of how long the available funding for such loans will last, based on the spending rate;
 (F) the amount of funding spent over the month for staff, along with the number of staff, and the percent by which each category has increased or decreased since the previous report under paragraph (1);
 (G) the amount of funding spent over the month for administrative costs, and the percent by which such spending has increased or decreased since the previous report under paragraph (1);
 (H) the amount of funding available for salaries and expenses combined, and the percent by which such funding has increased or decreased since the previous report under paragraph (1), noting the source of any additional funding; and
 (I) an estimate of how long the available funding for salaries and expenses will last, based on the spending rate.

“(I) affected by a catastrophic national disaster declared under section 7(b)(11), during the time period described in clause (ii); and
 “(II) for which the Administrator determines that designation as a HUBZone would substantially contribute to the reconstruction and recovery effort in that area.”

“(ii) TIME PERIOD.—The time period for the purposes of clause (i)—
 “(I) shall be the 2-year period beginning on the date that the applicable catastrophic national disaster was declared under section 7(b)(11); and
 “(II) may, at the discretion of the Administrator, be extended to be the 3-year period beginning on the date described in subclause (I).”;

(3) by adding at the end the following:
 “(8) TIME PERIOD.—The time period for the purposes of paragraph (1)(F)—
 “(A) shall be the 2-year period beginning on the later of the date of enactment of this paragraph and August 29, 2007; and
 “(B) may, at the discretion of the Administrator, be extended to be the 3-year period beginning on the later of the date of enactment of this paragraph and August 29, 2007.”.

(b) TOLLING OF GRADUATION.—Section 7(j)(10)(C) of the Small Business Act (15 U.S.C. 636(j)(10)(C)) is amended by adding at the end the following:
 “(iii)(I) For purposes of this subparagraph, if the Administrator designates an area as a HUBZone under section 3(p)(4)(E)(i)(II), the Administrator shall not count the time period described in subclause (II) of this clause for any small business concern—
 “(aa) that is participating in any program, activity, or contract under section 8(a); and
 “(bb) the principal place of business of which is located in that area.”

“(II) The time period for purposes of subclause (I)—
 “(aa) shall be the 2-year period beginning on the date that the applicable catastrophic national disaster was declared under section 7(b)(11); and
 “(bb) may, at the discretion of the Administrator, be extended to be the 3-year period beginning on the date described in item (aa).”.

(c) STUDY OF HUBZONE DISASTER AREAS.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives evaluating the designation by the Administrator of catastrophic national disaster areas, as that term is defined in section 3(p)(4)(E) of the Small Business Act (as added by this Act), as HUBZones.

TITLE III—DISASTER ASSISTANCE OVERSIGHT
SEC. 301. CONGRESSIONAL OVERSIGHT.
 (a) MONTHLY ACCOUNTING REPORT TO CONGRESS.—
 (1) REPORTING REQUIREMENTS.—Not later than the fifth business day of each month during the applicable period for a major disaster, the Administrator shall provide to the Committee on Small Business and Entrepreneurship and the Committee on Appropriations of the Senate and to the Committee on Small Business and the Committee on Appropriations of the House of Representatives a report on the operation of the disaster loan program authorized under section 7 of the Small Business Act (15 U.S.C. 636) for that major disaster during the preceding month.
 (2) CONTENTS.—Each report under paragraph (1) shall include—
 (A) the daily average lending volume, in number of loans and dollars, and the percent by which each category has increased or de-

creased since the previous report under paragraph (1);
 (B) the weekly average lending volume, in number of loans and dollars, and the percent by which each category has increased or decreased since the previous report under paragraph (1);
 (C) the amount of funding spent over the month for loans, both in appropriations and program level, and the percent by which each category has increased or decreased since the previous report under paragraph (1);
 (D) the amount of funding available for loans, both in appropriations and program level, and the percent by which each category has increased or decreased since the previous report under paragraph (1), noting the source of any additional funding;
 (E) an estimate of how long the available funding for such loans will last, based on the spending rate;
 (F) the amount of funding spent over the month for staff, along with the number of staff, and the percent by which each category has increased or decreased since the previous report under paragraph (1);
 (G) the amount of funding spent over the month for administrative costs, and the percent by which such spending has increased or decreased since the previous report under paragraph (1);
 (H) the amount of funding available for salaries and expenses combined, and the percent by which such funding has increased or decreased since the previous report under paragraph (1), noting the source of any additional funding; and
 (I) an estimate of how long the available funding for salaries and expenses will last, based on the spending rate.

(b) DAILY DISASTER UPDATES TO CONGRESS FOR PRESIDENTIALLY DECLARED DISASTERS.—
 (1) IN GENERAL.—Each day during a disaster update period, excluding Federal holidays and weekends, the Administration shall provide to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report on the operation of the disaster loan program of the Administration for the area in which the President declared a major disaster.
 (2) CONTENTS.—Each report under paragraph (1) shall include—
 (A) the number of Administration staff performing loan processing, field inspection, and other duties for the declared disaster, and the allocations of such staff in the disaster field offices, disaster recovery centers, workshops, and other Administration offices nationwide;
 (B) the daily number of applications received from applicants in the relevant area, as well as a breakdown of such figures by State;
 (C) the daily number of applications pending application entry from applicants in the relevant area, as well as a breakdown of such figures by State;
 (D) the daily number of applications withdrawn by applicants in the relevant area, as well as a breakdown of such figures by State;
 (E) the daily number of applications summarily declined by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;
 (F) the daily number of applications declined by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;
 (G) the daily number of applications in process from applicants in the relevant area, as well as a breakdown of such figures by State;

“(I) affected by a catastrophic national disaster declared under section 7(b)(11), during the time period described in clause (ii); and
 “(II) for which the Administrator determines that designation as a HUBZone would substantially contribute to the reconstruction and recovery effort in that area.”

“(ii) TIME PERIOD.—The time period for the purposes of clause (i)—
 “(I) shall be the 2-year period beginning on the date that the applicable catastrophic national disaster was declared under section 7(b)(11); and
 “(II) may, at the discretion of the Administrator, be extended to be the 3-year period beginning on the date described in subclause (I).”;

(3) by adding at the end the following:
 “(8) TIME PERIOD.—The time period for the purposes of paragraph (1)(F)—
 “(A) shall be the 2-year period beginning on the later of the date of enactment of this paragraph and August 29, 2007; and
 “(B) may, at the discretion of the Administrator, be extended to be the 3-year period beginning on the later of the date of enactment of this paragraph and August 29, 2007.”.

(b) TOLLING OF GRADUATION.—Section 7(j)(10)(C) of the Small Business Act (15 U.S.C. 636(j)(10)(C)) is amended by adding at the end the following:
 “(iii)(I) For purposes of this subparagraph, if the Administrator designates an area as a HUBZone under section 3(p)(4)(E)(i)(II), the Administrator shall not count the time period described in subclause (II) of this clause for any small business concern—
 “(aa) that is participating in any program, activity, or contract under section 8(a); and
 “(bb) the principal place of business of which is located in that area.”

“(II) The time period for purposes of subclause (I)—
 “(aa) shall be the 2-year period beginning on the date that the applicable catastrophic national disaster was declared under section 7(b)(11); and
 “(bb) may, at the discretion of the Administrator, be extended to be the 3-year period beginning on the date described in item (aa).”.

(c) STUDY OF HUBZONE DISASTER AREAS.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives evaluating the designation by the Administrator of catastrophic national disaster areas, as that term is defined in section 3(p)(4)(E) of the Small Business Act (as added by this Act), as HUBZones.

(H) the daily number of applications approved by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(I) the daily dollar amount of applications approved by the Administration from applicants in the relevant area, as well as a breakdown of such figures by State;

(J) the daily amount of loans dispersed, both partially and fully, by the Administration to applicants in the relevant area, as well as a breakdown of such figures by State;

(K) the daily dollar amount of loans disbursed, both partially and fully, from the relevant area, as well as a breakdown of such figures by State;

(L) the number of applications approved, including dollar amount approved, as well as applications partially and fully disbursed, including dollar amounts, since the last report under paragraph (1); and

(M) the declaration date, physical damage closing date, economic injury closing date, and number of counties included in the declaration of a major disaster.

(c) **NOTICE OF THE NEED FOR SUPPLEMENTAL FUNDS.**—On the same date that the Administrator notifies any committee of the Senate or the House of Representatives that supplemental funding is necessary for the disaster loan program of the Administration in any fiscal year, the Administrator shall notify in writing the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the need for supplemental funds for that loan program.

(d) **REPORT ON CONTRACTING.**—

(1) **IN GENERAL.**—Not later than 6 months after the date on which the President declares a major disaster, and every 6 months thereafter until the date that is 18 months after the date on which the major disaster was declared, the Administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives regarding Federal contracts awarded as a result of that major disaster.

(2) **CONTENTS.**—Each report submitted under paragraph (1) shall include—

(A) the total number of contracts awarded as a result of that major disaster;

(B) the total number of contracts awarded to small business concerns as a result of that major disaster;

(C) the total number of contracts awarded to women and minority-owned businesses as a result of that major disaster; and

(D) the total number of contracts awarded to local businesses as a result of that major disaster.

(e) **REPORT ON LOAN APPROVAL RATE.**—

(1) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, the Administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives detailing how the Administration can improve the processing of applications under the disaster loan program of the Administration.

(2) **CONTENTS.**—The report submitted under paragraph (1) shall include—

(A) recommendations, if any, regarding—

(i) staffing levels during a major disaster;

(ii) how to improve the process for processing, approving, and disbursing loans under the disaster loan program of the Administration, to ensure that the maximum assistance is provided to victims in a timely manner;

(iii) the viability of using alternative methods for assessing the ability of an applicant to repay a loan, including the credit score of the applicant on the day before the

date on which the disaster for which the applicant is seeking assistance was declared;

(iv) methods, if any, for the Administration to expedite loss verification and loan processing of disaster loans during a major disaster for businesses affected by, and located in the area for which the President declared, the major disaster that are a major source of employment in the area or are vital to recovery efforts in the region (including providing debris removal services, manufactured housing, or building materials);

(v) legislative changes, if any, needed to implement findings from the Accelerated Disaster Response Initiative of the Administration; and

(vi) a description of how the Administration plans to integrate and coordinate the response to a major disaster with the technical assistance programs of the Administration; and

(B) the plans of the Administrator for implementing any recommendation made under subparagraph (A).

OPEN GOVERNMENT ACT OF 2007

On Friday, August 3, 2007, the Senate passed S. 849, as amended, as follows:

S. 849

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Openness Promotes Effectiveness in our National Government Act of 2007” or the “OPEN Government Act of 2007”.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Freedom of Information Act was signed into law on July 4, 1966, because the American people believe that—

(A) our constitutional democracy, our system of self-government, and our commitment to popular sovereignty depends upon the consent of the governed;

(B) such consent is not meaningful unless it is informed consent; and

(C) as Justice Black noted in his concurring opinion in *Barr v. Matteo* (360 U.S. 564 (1959)), “The effective functioning of a free government like ours depends largely on the force of an informed public opinion. This calls for the widest possible understanding of the quality of government service rendered by all elective or appointed public officials or employees.”;

(2) the American people firmly believe that our system of government must itself be governed by a presumption of openness;

(3) the Freedom of Information Act establishes a “strong presumption in favor of disclosure” as noted by the United States Supreme Court in *United States Department of State v. Ray* (502 U.S. 164 (1991)), a presumption that applies to all agencies governed by that Act;

(4) “disclosure, not secrecy, is the dominant objective of the Act,” as noted by the United States Supreme Court in *Department of Air Force v. Rose* (425 U.S. 352 (1976));

(5) in practice, the Freedom of Information Act has not always lived up to the ideals of that Act; and

(6) Congress should regularly review section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), in order to determine whether further changes and improvements are necessary to ensure that the Government remains open and accessible to the American people and is always based not upon the “need to know” but upon the fundamental “right to know”.

SEC. 3. PROTECTION OF FEE STATUS FOR NEWS MEDIA.

Section 552(a)(4)(A)(ii) of title 5, United States Code, is amended by adding at the end the following:

“The term ‘a representative of the news media’ means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. The term ‘news’ means information that is about current events or that would be of current interest to the public. Examples of news-media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of ‘news’) who make their products available for purchase by or subscription by or free distribution to the general public. These examples are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news-media entities. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Government may also consider the past publication record of the requester in making such a determination.”.

SEC. 4. RECOVERY OF ATTORNEY FEES AND LITIGATION COSTS.

Section 552(a)(4)(E) of title 5, United States Code, is amended—

(1) by inserting “(i)” after “(E)”;

(2) by adding at the end the following:

“(ii) For purposes of this section, a complainant has substantially prevailed if the complainant has obtained relief through either—

“(I) a judicial order, or an enforceable written agreement or consent decree; or

“(II) a voluntary or unilateral change in position by the agency, provided that the complainant’s claim is not insubstantial.”.

SEC. 5. DISCIPLINARY ACTIONS FOR ARBITRARY AND CAPRICIOUS REJECTIONS OF REQUESTS.

Section 552(a)(4)(F) of title 5, United States Code, is amended—

(1) by inserting “(i)” after “(F)”;

(2) by adding at the end the following:

“(ii) The Attorney General shall—

“(I) notify the Special Counsel of each civil action described under the first sentence of clause (i); and

“(II) annually submit a report to Congress on the number of such civil actions in the preceding year.

“(iii) The Special Counsel shall annually submit a report to Congress on the actions taken by the Special Counsel under clause (i).”.

SEC. 6. TIME LIMITS FOR AGENCIES TO ACT ON REQUESTS.

(a) **TIME LIMITS.**—

(1) **IN GENERAL.**—Section 552(a)(6)(A)(i) of title 5, United States Code, is amended by striking “determination;” and inserting “determination. The 20-day period shall commence on the date on which the request is first received by the appropriate component of the agency, but in any event no later than ten days after the request is first received by any component of the agency that is designated in the agency’s FOIA regulations to receive FOIA requests. The 20-day period shall not be tolled by the agency except—

“(I) that the agency may make one request to the requester for information and toll the