

Public Law 110–252
110th Congress

An Act

Making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes.

June 30, 2008
[H.R. 2642]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2008, and for other purposes, namely:

Supplemental
Appropriations
Act, 2008.

TITLE I—MILITARY CONSTRUCTION, VETERANS AFFAIRS,
INTERNATIONAL AFFAIRS, AND OTHER SECURITY-RE-
LATED MATTERS

CHAPTER 1—AGRICULTURE

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

For an additional amount for “Public Law 480 Title II Grants”, \$850,000,000, to remain available until expended.

For an additional amount for “Public Law 480 Title II Grants”, \$395,000,000, to become available on October 1, 2008, and to remain available until expended.

CHAPTER 2—JUSTICE

DEPARTMENT OF JUSTICE

OFFICE OF INSPECTOR GENERAL

For an additional amount for “Office of Inspector General”, \$4,000,000, to remain available until September 30, 2009.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

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

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for “Salaries and Expenses, United States Attorneys”, \$5,000,000, to remain available until September 30, 2009.

UNITED STATES MARSHALS SERVICE

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$28,621,000, to remain available until September 30, 2009.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$106,122,000, to remain available until September 30, 2009.

For an additional amount for “Salaries and Expenses”, \$82,600,000, to become available on October 1, 2008, and to remain available until September 30, 2009.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$29,861,000, to remain available until September 30, 2009.

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

SALARIES AND EXPENSES

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

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

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

GENERAL PROVISION, THIS CHAPTER

SEC. 1201. Funds appropriated by this chapter, or made available by the transfer of funds in this chapter, for intelligence or intelligence related activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

CHAPTER 3—MILITARY CONSTRUCTION AND VETERANS
AFFAIRS

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, ARMY

For an additional amount for “Military Construction, Army”, \$1,108,200,000, of which \$921,000,000 shall remain available until September 30, 2009, and of which \$187,200,000 for child development centers and trainee and recruit facilities (including planning and design) shall remain available until September 30, 2012: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds provided under this heading, not to exceed \$73,400,000 shall be available for study, planning, design, and architect and engineer services: *Provided further*, That funds provided under this heading for Iraq shall not be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that none of the funds are to be used for the purpose of providing facilities for the permanent basing of United States military personnel in Iraq.

Certification.
Iraq.

MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for “Military Construction, Navy and Marine Corps”, \$355,907,000, of which \$295,516,000 shall remain available until September 30, 2009, and of which \$60,391,000 for child development centers and trainee and recruit facilities (including planning and design) shall remain available until September 30, 2012: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds provided under this heading, not to exceed \$15,843,000 shall be available for study, planning, design, and architect and engineer services.

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for “Military Construction, Air Force”, \$399,627,000, of which \$361,600,000 shall remain available until September 30, 2009, and of which \$38,027,000 for child development centers (including planning and design) shall remain available until September 30, 2012: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds provided under this heading, not to exceed \$36,427,000 shall be available for study, planning, design, and architect and engineer services: *Provided further*, That funds provided under this heading for Iraq shall not be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that none of the funds are to be used for the purpose of providing facilities for the permanent basing of United States military personnel in Iraq.

Certification.
Iraq.

MILITARY CONSTRUCTION, DEFENSE-WIDE

For an additional amount for “Military Construction, Defense-Wide”, \$890,921,000, of which \$27,600,000 shall remain available until September 30, 2009, and of which \$863,321,000 for medical treatment facilities (including planning and design) shall remain available until September 30, 2012: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

For an additional amount for “Family Housing Construction, Navy and Marine Corps”, \$11,766,000, to remain available until September 30, 2009: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

DEPARTMENT OF DEFENSE BASE CLOSURE ACCOUNT 2005

For deposit into the Department of Defense Base Closure Account 2005, established by section 2906A(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), \$1,278,886,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law.

DEPARTMENT OF VETERANS AFFAIRS

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For an additional amount for “General Operating Expenses”, \$100,000,000, to remain available until September 30, 2009.

INFORMATION TECHNOLOGY SYSTEMS

For an additional amount for “Information Technology Systems”, \$20,000,000, to remain available until September 30, 2009.

CONSTRUCTION, MAJOR PROJECTS

For an additional amount for “Construction, Major Projects”, \$396,377,000, to remain available until expended, which shall be for acceleration and completion of planned major construction of Level I polytrauma rehabilitation centers as identified in the Department of Veterans Affairs’ Five Year Capital Plan: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and major medical facility construction not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act the Secretary shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for funds provided under this heading.

Deadline.
Expenditure
plan.

GENERAL PROVISIONS, THIS CHAPTER

SEC. 1301. In addition to amounts otherwise appropriated or made available under the heading “Military Construction, Army”, there is hereby appropriated an additional \$200,000,000, to remain available until September 30, 2012, to accelerate barracks improvements at Department of Army installations: *Provided*, That notwithstanding any other provision of law, such funds may be obligated and expended to carry out planning and design and barracks construction not otherwise authorized by law: *Provided further*, That within 30 days of enactment of this Act the Secretary of the Army shall submit to the Committees on Appropriations of both Houses of Congress an expenditure plan for barracks construction prior to obligation.

Deadline.
Expenditure
plan.

SEC. 1302. None of the funds appropriated in this or any other Act may be used to disestablish, reorganize, or relocate the Armed Forces Institute of Pathology, except for the Armed Forces Medical Examiner, until the President has established, as required by section 722 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181; 122 Stat. 199; 10 U.S.C. 176 note), a Joint Pathology Center.

President.

SEC. 1303. (a) LIMITATION ON AUTHORITY.—

(1) IN GENERAL.—Chapter 53 of title 38, United States Code, is amended by inserting after section 5302 the following new section:

Combat Veterans
Debt Elimination
Act of 2008.

“§ 5302A Collection of indebtedness: certain debts of members of the Armed Forces and veterans who die of injury incurred or aggravated in the line of duty in a combat zone

“(a) LIMITATION ON AUTHORITY.—The Secretary may not collect all or any part of an amount owed to the United States by a member of the Armed Forces or veteran described in subsection (b) under any program under the laws administered by the Secretary, other than a program referred to in subsection (c), if the Secretary determines that termination of collection is in the best interest of the United States.

“(b) COVERED INDIVIDUALS.—A member of the Armed Forces or veteran described in this subsection is any member or veteran who dies as a result of an injury incurred or aggravated in the line of duty while serving in a theater of combat operations (as determined by the Secretary in consultation with the Secretary of Defense) in a war or in combat against a hostile force during a period of hostilities (as that term is defined in section 1712A(a)(2)(B) of this title) after September 11, 2001.

“(c) INAPPLICABILITY TO HOUSING AND SMALL BUSINESS BENEFIT PROGRAMS.—The limitation on authority in subsection (a) shall not apply to any amounts owed the United States under any program carried out under chapter 37 of this title.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 53 of such title is amended by inserting after the item relating to section 5302 the following new item:

“5302A. Collection of indebtedness: certain debts of members of the Armed Forces and veterans who die of injury incurred or aggravated in the line of duty in a combat zone.”.

(b) EQUITABLE REFUND.—In any case where all or any part of an indebtedness of a covered individual, as described in section 5302A(a) of title 38, United States Code, as added by subsection

38 USC 5302A
note.

(a)(1), was collected after September 11, 2001, and before the date of the enactment of this Act, and the Secretary of Veterans Affairs determines that such indebtedness would have been terminated had such section been in effect at such time, the Secretary may refund the amount so collected if the Secretary determines that the individual is equitably entitled to such refund.

Applicability.
38 USC 5302A
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply with respect to collections of indebtedness of members of the Armed Forces and veterans who die on or after September 11, 2001.

38 USC 101 note.

(d) SHORT TITLE.—This section may be cited as the “Combat Veterans Debt Elimination Act of 2008”.

CHAPTER 4—DEPARTMENT OF STATE AND FOREIGN OPERATIONS

SUBCHAPTER A—SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2008

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for “Diplomatic and Consular Programs”, \$1,465,700,000, to remain available until September 30, 2009, of which \$210,400,000 is for worldwide security protection and shall remain available until expended: *Provided*, That not more than \$1,150,000,000 of the funds appropriated under this heading shall be available for diplomatic operations in Iraq: *Provided further*, That of the funds appropriated under this heading, not more than \$30,000,000 shall be made available to establish and implement a coordinated civilian response capacity at the United States Department of State.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Office of Inspector General”, \$9,500,000, to remain available until September 30, 2009: *Provided*, That \$2,500,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight, and \$2,000,000 shall be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for “Embassy Security, Construction, and Maintenance”, \$76,700,000, to remain available until expended, for facilities in Afghanistan.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for “Contributions to International Organizations”, \$66,000,000, to remain available until September 30, 2009.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for “Contributions for International Peacekeeping Activities”, \$373,708,000, to remain available until September 30, 2009, of which \$333,600,000 shall be made available for the United Nations-African Union Hybrid Mission in Darfur.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for “International Broadcasting Operations”, \$2,000,000, to remain available until September 30, 2009.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for “International Disaster Assistance”, \$220,000,000, to remain available until expended.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR
INTERNATIONAL DEVELOPMENT

For an additional amount for “Operating Expenses of the United States Agency for International Development”, \$150,500,000, to remain available until September 30, 2009: *Provided*, That of the funds appropriated under this heading, not more than \$25,000,000 shall be made available to establish and implement a coordinated civilian response capacity at the United States Agency for International Development.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR
INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For an additional amount for “Operating Expenses of the United States Agency for International Development Office of Inspector General”, \$4,000,000, to remain available until September 30, 2009.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For an additional amount for “Economic Support Fund”, \$1,882,500,000, to remain available until September 30, 2009, of which not more than \$424,000,000 may be made available for

Reports.

assistance for Iraq, \$175,000,000 shall be made available for assistance for Jordan to meet the needs of Iraqi refugees, and up to \$53,000,000 may be made available for energy-related assistance for North Korea, notwithstanding any other provision of law: *Provided*, That not more than \$171,000,000 of the funds appropriated under this heading in this subchapter shall be made available for assistance for the West Bank and Gaza and none of such funds shall be for cash transfer assistance: *Provided further*, That of the funds appropriated under this heading, \$1,000,000 shall be made available for the Office of the United Nations High Commissioner for Human Rights in Mexico: *Provided further*, That the funds made available under this heading for energy-related assistance for North Korea may be made available to support the goals of the Six Party Talks Agreements after the Secretary of State determines and reports to the Committees on Appropriations that North Korea is continuing to fulfill its commitments under such agreements.

DEPARTMENT OF STATE

DEMOCRACY FUND

For an additional amount for “Democracy Fund”, \$76,000,000, to remain available until September 30, 2009, of which \$75,000,000 shall be for democracy programs in Iraq and \$1,000,000 shall be for democracy programs in Chad.

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for “International Narcotics Control and Law Enforcement”, \$390,300,000, to remain available until September 30, 2009, of which not more than \$25,000,000 shall be made available for security assistance for the West Bank.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for “Migration and Refugee Assistance”, \$315,000,000, to remain available until expended.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE
FUND

For an additional amount for “United States Emergency Refugee and Migration Assistance Fund”, \$31,000,000, to remain available until expended.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED
PROGRAMS

For an additional amount for “Nonproliferation, Anti-Terrorism, Demining and Related Programs”, \$13,700,000, to remain available until September 30, 2009.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for “Foreign Military Financing Program”, \$137,500,000, to remain available until September 30, 2009, of which \$17,000,000 shall be made available for assistance for Jordan and up to \$116,500,000 may be made available for assistance for Mexico.

Not more than \$1,350,000 of the funds appropriated or otherwise made available under the heading “Foreign Military Financing Program” by the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161) that were previously transferred to and merged with “Diplomatic and Consular Programs” may be made available for any purposes authorized for that account, of which up to \$500,000 shall be made available to increase the capacity of the United States Embassy in Mexico City to implement section 620J of the Foreign Assistance Act of 1961: *Provided*, That funds made available by this paragraph shall not be subject to Section 8002 of this Act.

SUBCHAPTER B—BRIDGE FUND SUPPLEMENTAL
APPROPRIATIONS FOR FISCAL YEAR 2009

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for “Diplomatic and Consular Programs”, \$704,900,000, which shall become available on October 1, 2008, and remain available through September 30, 2009: *Provided*, That of the funds appropriated under this heading, \$78,400,000 is for worldwide security protection and shall remain available until expended: *Provided further*, That not more than \$550,500,000 of the funds appropriated under this heading shall be available for diplomatic operations in Iraq.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Office of Inspector General”, \$57,000,000, which shall become available on October 1, 2008, and remain available through September 30, 2009: *Provided*, That \$36,500,000 shall be transferred to the Special Inspector General for Iraq Reconstruction for reconstruction oversight and \$5,000,000 shall be transferred to the Special Inspector General for Afghanistan Reconstruction for reconstruction oversight.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for “Embassy Security, Construction, and Maintenance”, \$41,300,000, which shall become available on

October 1, 2008, and remain available until expended, for facilities in Afghanistan.

INTERNATIONAL ORGANIZATIONS

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for “Contributions to International Organizations”, \$75,000,000, which shall become available on October 1, 2008, and remain available through September 30, 2009.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for “Contributions for International Peacekeeping Activities”, \$150,500,000, which shall become available on October 1, 2008, and remain available through September 30, 2009.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for “International Broadcasting Operations”, \$6,000,000, which shall become available on October 1, 2008, and remain available through September 30, 2009.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

GLOBAL HEALTH AND CHILD SURVIVAL

For an additional amount for “Global Health and Child Survival”, \$75,000,000, which shall become available on October 1, 2008, and remain available through September 30, 2009, for programs to combat avian influenza.

DEVELOPMENT ASSISTANCE

For an additional amount for “Development Assistance”, \$200,000,000, for assistance for developing countries to address the international food crisis notwithstanding any other provision of law, which shall become available on October 1, 2008, and remain available through September 30, 2010: *Provided*, That such assistance should be carried out consistent with the purposes of section 103(a)(1) of the Foreign Assistance Act of 1961: *Provided further*, That not more than \$50,000,000 should be made available for local or regional purchase and distribution of food: *Provided further*, That the Secretary of State shall submit to the Committees on Appropriations not later than 45 days after enactment of this Act, and prior to the initial obligation of funds appropriated under this heading, a report on the proposed uses of such funds to alleviate hunger and malnutrition, including a list of those countries facing significant food shortages.

Deadline.
Reports.

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for “International Disaster Assistance”, \$200,000,000, which shall become available on October 1, 2008, and remain available until expended.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR
INTERNATIONAL DEVELOPMENT

For an additional amount for “Operating Expenses of the United States Agency for International Development”, \$93,000,000, which shall become available on October 1, 2008, and remain available through September 30, 2009.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR
INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For an additional amount for “Operating Expenses of the United States Agency for International Development Office of Inspector General”, \$1,000,000, which shall become available on October 1, 2008, and remain available through September 30, 2009.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For an additional amount for “Economic Support Fund”, \$1,124,800,000, which shall become available on October 1, 2008, and remain available through September 30, 2009, of which not more than \$102,500,000 may be made available for assistance for Iraq, \$100,000,000 shall be made available for assistance for Jordan, not more than \$455,000,000 may be made available for assistance for Afghanistan, not more than \$150,000,000 may be made available for assistance for Pakistan, not more than \$150,000,000 shall be made available for assistance for the West Bank and Gaza, and \$15,000,000 may be made available for energy-related assistance for North Korea, notwithstanding any other provision of law.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for “International Narcotics Control and Law Enforcement”, \$199,000,000, which shall become available on October 1, 2008, and remain available through September 30, 2009: *Provided*, That not more than \$50,000,000 of the funds appropriated under this heading shall be made available for security assistance for the West Bank and up to \$48,000,000 may be made available for assistance for Mexico.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for “Migration and Refugee Assistance”, \$350,000,000, which shall become available on October 1, 2008, and remain available until expended.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED
PROGRAMS

For an additional amount for “Nonproliferation, Anti-Terrorism, Demining and Related Programs”, \$4,500,000, for humanitarian demining assistance for Iraq, which shall become available on October 1, 2008, and remain available through September 30, 2009.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

Deadline.

For an additional amount for “Foreign Military Financing Program”, \$302,500,000, which shall become available on October 1, 2008, and remain available through September 30, 2009, of which \$100,000,000 shall be made available for assistance for Jordan, and not less than \$170,000,000 shall be available for grants only for Israel and shall be disbursed not later than November 1, 2008: *Provided*, That section 3802(c) of title III, chapter 8 of Public Law 110–28 shall apply to funds made available under this heading for assistance for Lebanon.

Applicability.

PEACEKEEPING OPERATIONS

For an additional amount for “Peacekeeping Operations”, \$95,000,000, which shall become available on October 1, 2008, and remain available through September 30, 2009.

SUBCHAPTER C—GENERAL PROVISIONS, THIS CHAPTER

EXTENSION OF AUTHORITIES

SEC. 1401. Funds appropriated by this chapter may be obligated and expended notwithstanding section 10 of Public Law 91–672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

IRAQ

Certification.
Reports.

SEC. 1402. (a) ASSET TRANSFER AGREEMENT.—

(1) None of the funds appropriated by this chapter for infrastructure maintenance activities in Iraq may be made available until the Secretary of State certifies and reports to the Committees on Appropriations that the Governments of the United States and Iraq have entered into, and are implementing, an asset transfer agreement that includes commitments by the Government of Iraq to maintain United States-funded infrastructure in Iraq.

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

Lists.

(b) ANTI-CORRUPTION.—Not more than 40 percent of the funds appropriated by this chapter for rule of law programs in Iraq may be made available for assistance for the Government of Iraq

until the Secretary of State reports to the Committees on Appropriations that a comprehensive anti-corruption strategy has been developed, and is being implemented, by the Government of Iraq, and the Secretary of State submits a list, in classified form if necessary, to the Committees on Appropriations of senior Iraqi officials who the Secretary has credible evidence to believe have committed corrupt acts.

(c) **PROVINCIAL RECONSTRUCTION TEAMS.**—None of the funds appropriated by this chapter for the operational or program expenses of Provincial Reconstruction Teams (PRTs) in Iraq may be made available until the Secretary of State submits a report to the Committees on Appropriations detailing—

(1) the strategy for the eventual winding down and close out of PRTs;

(2) anticipated costs associated with PRT operations, programs, and eventual winding down and close out, including security for PRT personnel and anticipated Government of Iraq contributions; and

(3) anticipated placement and cost estimates of future United States Consulates in Iraq.

(d) **COMMUNITY STABILIZATION PROGRAM.**—Not more than 50 percent of the funds appropriated by this chapter for the Community Stabilization Program in Iraq may be made available until the Secretary of State certifies and reports to the Committees on Appropriations that the United States Agency for International Development is implementing recommendations contained in Office of Inspector General Audit Report No. E-267-08-001-P to ensure accountability of funds.

(e) **MATCHING REQUIREMENT.**—

(1) Notwithstanding any other provision of law, funds appropriated by this chapter for assistance for Iraq shall be made available only to the extent that the Government of Iraq matches such assistance on a dollar-for-dollar basis.

(2) Paragraph (1) shall not apply to funds made available for—

(A) grants and cooperative agreements for programs to promote democracy and human rights;

(B) the Community Action Program and other assistance through civil society organizations;

(C) humanitarian demining; or

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

(3) The Secretary of State shall certify to the Committees on Appropriations prior to the initial obligation of funds pursuant to this section that the Government of Iraq has committed to obligate matching funds on a dollar-for-dollar basis. The Secretary shall submit a report to the Committees on Appropriations not later than September 30, 2008, and 180 days thereafter, detailing the amounts of funds obligated and expended by the Government of Iraq to meet the requirements of this section.

Deadlines.

(4) Not later than 45 days after enactment of this Act, the Secretary of State shall submit a report to the Committees on Appropriations detailing the amounts provided by the Government of Iraq since June 30, 2004, to assist Iraqi refugees in Syria, Jordan, and elsewhere, and the amount of such assistance the Government of Iraq plans to provide in fiscal year

Deadline.

2008. The Secretary shall work expeditiously with the Government of Iraq to establish an account within its annual budget sufficient to, at a minimum, match United States contributions on a dollar-for-dollar basis to organizations and programs for the purpose of assisting Iraqi refugees.

AFGHANISTAN

SEC. 1403. (a) ASSISTANCE FOR WOMEN AND GIRLS.—Funds appropriated by this chapter under the heading “Economic Support Fund” that are available for assistance for Afghanistan shall be made available, to the maximum extent practicable, through local Afghan provincial and municipal governments and Afghan civil society organizations and in a manner that emphasizes the participation of Afghan women and directly improves the economic, social and political status of Afghan women and girls.

(b) HIGHER EDUCATION.—Of the funds appropriated by this chapter under the heading “Economic Support Fund” that are made available for education programs in Afghanistan, not less than 50 percent shall be made available to support higher education and vocational training programs in law, accounting, engineering, public administration, and other disciplines necessary to rebuild the country, in which the participation of women is emphasized.

(c) POST-OPERATIONS ASSISTANCE.—Of the funds appropriated by this chapter under the heading “Economic Support Fund” that are available for assistance for Afghanistan, not less than \$2,000,000 shall be made available for a United States contribution to the North Atlantic Treaty Organization/International Security Assistance Force Post-Operations Humanitarian Relief Fund.

Deadline.
Reports.

(d) ANTI-CORRUPTION.—Not later than 90 days after the enactment of this Act, the Secretary of State shall—

(1) submit a report to the Committees on Appropriations on actions being taken by the Government of Afghanistan to combat corruption within the national and provincial governments, including to remove and prosecute officials who have committed corrupt acts;

Lists.

(2) submit a list to the Committees on Appropriations, in classified form if necessary, of senior Afghan officials who the Secretary has credible evidence to believe have committed corrupt acts; and

Certification.

(3) certify and report to the Committees on Appropriations that effective mechanisms are in place to ensure that assistance to national government ministries and provincial governments will be properly accounted for.

WEST BANK

Deadlines.
Reports.

SEC. 1404. Not later than 90 days after the date of enactment of this Act and 180 days thereafter, the Secretary of State shall submit to the Committees on Appropriations a report on assistance provided by the United States for the training of Palestinian security forces, including detailed descriptions of the training, curriculum, and equipment provided; an assessment of the training and the performance of forces after training has been completed; and a description of the assistance that has been pledged and provided to Palestinian security forces by other donors: *Provided*, That not later than 90 days after the date of enactment of this Act, the Secretary of State shall report to the Committees on

Appropriations, in classified form if necessary, on the security strategy of the Palestinian Authority.

WAIVER OF CERTAIN SANCTIONS AGAINST NORTH KOREA

SEC. 1405. (a) WAIVER AUTHORITY.—

22 USC
2799aa–1 note.

(1) IN GENERAL.—Except as provided in subsection (b), the President may waive in whole or in part, with respect to North Korea, the application of any sanction contained in subparagraph (A), (B), (D) or (G) under section 102(b)(2) of the Arms Export Control Act (22 U.S.C. 2799aa–1(b)), for the purpose of providing assistance related to—

(A) the implementation and verification of the compliance by North Korea with its commitment, undertaken in the Joint Statement of September 19, 2005, to abandon all nuclear weapons and existing nuclear programs as part of the verifiable denuclearization of the Korean Peninsula; and

(B) the elimination of the capability of North Korea to develop, deploy, transfer, or maintain weapons of mass destruction and their delivery systems.

(2) LIMITATION.—The authority under paragraph (1) shall expire 5 years after the date of enactment of this Act.

Expiration date.

(b) EXCEPTIONS.—

(1) LIMITED EXCEPTION RELATED TO CERTAIN SANCTIONS AND PROHIBITIONS.—The authority under subsection (a) shall not apply with respect to a sanction or prohibition under subparagraph (B) or (G) of section 102(b)(2) of the Arms Export Control Act, unless the President determines and certifies to the appropriate congressional committees that—

President.
Certification.

(A) all reasonable steps will be taken to assure that the articles or services exported or otherwise provided will not be used to improve the military capabilities of the armed forces of North Korea; and

(B) such waiver is in the national security interests of the United States.

(2) LIMITED EXCEPTION RELATED TO CERTAIN ACTIVITIES.—Unless the President determines and certifies to the appropriate congressional committees that using the authority under subsection (a) is vital to the national security interests of the United States, such authority shall not apply with respect to—

President.
Certification.

(A) an activity described in subparagraph (A) of section 102(b)(1) of the Arms Export Control Act that occurs after September 19, 2005, and before the date of the enactment of this Act;

(B) an activity described in subparagraph (C) of such section that occurs after September 19, 2005; or

(C) an activity described in subparagraph (D) of such section that occurs after the date of enactment of this Act.

(3) EXCEPTION RELATED TO CERTAIN ACTIVITIES OCCURRING AFTER DATE OF ENACTMENT.—The authority under subsection (a) shall not apply with respect to an activity described in subparagraph (A) or (B) of section 102(b)(1) of the Arms Export Control Act that occurs after the date of the enactment of this Act.

(4) LIMITED EXCEPTION RELATED TO LETHAL WEAPONS.—The authority under subsection (a) shall not apply with respect to any export of lethal defense articles that would be prevented by the application of section 102(b)(2) of the Arms Export Control Act.

President.

(c) NOTIFICATIONS AND REPORTS.—

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

(2) ANNUAL REPORT.—Not later than January 31, 2009, and annually thereafter, the President shall submit to the appropriate congressional committees a report that—

(A) lists all waivers issued under subsection (a) during the preceding year;

(B) describes in detail the progress that is being made in the implementation of the commitment undertaken by North Korea, in the Joint Statement of September 19, 2005, to abandon all nuclear weapons and existing nuclear programs as part of the verifiable denuclearization of the Korean Peninsula;

(C) discusses specifically any shortcomings in the implementation by North Korea of that commitment; and

(D) lists and describes the progress and shortcomings, in the preceding year, of all other programs promoting the elimination of the capability of North Korea to develop, deploy, transfer, or maintain weapons of mass destruction or their delivery systems.

(3) REPORT ON VERIFICATION MEASURES RELATING TO NORTH KOREA'S NUCLEAR PROGRAMS.—

(A) IN GENERAL.—Not later than 15 days after the date of enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report on verification measures relating to North Korea's nuclear programs under the Six-Party Talks Agreement of February 13, 2007, with specific focus on how such verification measures are defined under the Six-Party Talks Agreement and understood by the United States Government.

(B) MATTERS TO BE INCLUDED.—The report required under subsection (A) shall include, among other elements, a description of—

(i) how the United States will confirm that North Korea has “provided a complete and correct declaration of all of its nuclear programs”;

(ii) how the United States will maintain a high and ongoing level of confidence that North Korea has fully met the terms of the Six-Party Talks Agreement relating to its nuclear programs;

(iii) any diplomatic agreement with North Korea regarding verification measures relating to North Korea's nuclear programs under the Six-Party Talks Agreement (other than implementing arrangements made during on-site operations); and

(iv) any significant and continuing disagreement with North Korea regarding verification measures

relating to North Korea's nuclear programs under the Six-Party Talks Agreement.

(C) FORM.—The report required under subsection (A) shall be submitted in unclassified form, but may include a classified annex.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

(1) the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate; and

(2) the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives.

MEXICO

SEC. 1406. (a) ASSISTANCE FOR MEXICO.—Of the funds appropriated under the headings “International Narcotics Control and Law Enforcement”, “Foreign Military Financing Program”, and “Economic Support Fund” in this chapter, not more than \$352,000,000 of the funds appropriated in subchapter A and \$48,000,000 of the funds appropriated in subchapter B may be made available for assistance for Mexico, only to combat drug trafficking and related violence and organized crime, and for judicial reform, institution building, anti-corruption, and rule of law activities, of which not less than \$73,500,000 shall be used for judicial reform, institution building, anti-corruption, and rule of law activities: *Provided*, That none of the funds made available under this section shall be made available for budget support or as cash payments: *Provided further*, That not more than 45 days after enactment of this Act, and after consulting with relevant Mexican Government authorities, the Secretary of State shall report in writing to the Committees on Appropriations on the procedures in place to implement section 620J of the Foreign Assistance Act of 1961.

Deadline.
Reports.

(b) ALLOCATION OF FUNDS.—Fifteen percent of the funds made available in this chapter for assistance for Mexico under the headings “International Narcotics Control and Law Enforcement” and “Foreign Military Financing Program” may not be obligated until the Secretary of State reports in writing to the Committees on Appropriations that the Government of Mexico is—

Reports.

(1) improving the transparency and accountability of federal police forces and working with state and municipal authorities to improve the transparency and accountability of state and municipal police forces through mechanisms including establishing police complaints commissions with authority and independence to receive complaints and carry out effective investigations;

(2) establishing a mechanism for regular consultations among relevant Mexican Government authorities, Mexican human rights organizations and other relevant Mexican civil society organizations, to make recommendations concerning implementation of the Merida Initiative in accordance with Mexican and international law;

(3) ensuring that civilian prosecutors and judicial authorities are investigating and prosecuting, in accordance with Mexican and international law, members of the federal police and military forces who have been credibly alleged to have committed violations of human rights, and the federal police and

military forces are fully cooperating with the investigations; and

(4) enforcing the prohibition, in accordance with Mexican and international law, on the use of testimony obtained through torture or other ill-treatment.

(c) EXCEPTION.—Notwithstanding subsection (b), of the funds appropriated by subchapter A for assistance for Mexico under the heading “International Narcotics Control and Law Enforcement”, \$3,000,000 shall be made available for technical and other assistance to enable the Government of Mexico to implement a unified national registry of federal, state, and municipal police officers.

(d) REPORT.—The report required in subsection (b) shall include a description of actions taken with respect to each requirement and the cases or issues brought to the attention of the Secretary of State for which the response or action taken has been inadequate.

(e) NOTIFICATION.—Funds made available for Mexico by this chapter shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1).

Deadline.

(f) SPENDING PLAN.—Not later than 45 days after the date of the enactment of this Act, the Secretary of State shall submit to the Committees on Appropriations a detailed spending plan for funds appropriated or otherwise made available for Mexico by this chapter, which shall include a strategy, developed after consulting with relevant Mexican Government authorities, for combating drug trafficking and related violence and organized crime, judicial reform, institution building, anti-corruption, and rule of law activities, with concrete goals, actions to be taken, budget proposals, and anticipated results.

CENTRAL AMERICA

SEC. 1407. (a) ASSISTANCE FOR THE COUNTRIES OF CENTRAL AMERICA.—Of the funds appropriated in subchapter A under the headings “International Narcotics Control and Law Enforcement”, “Foreign Military Financing Program”, “Nonproliferation, Anti-Terrorism, Demining and Related Programs”, and “Economic Support Fund”, \$65,000,000 may be made available for assistance for the countries of Central America, Haiti, and the Dominican Republic only to combat drug trafficking and related violence and organized crime, and for judicial reform, institution building, anti-corruption, rule of law activities, and maritime security: *Provided*, That of the funds appropriated under the heading “Economic Support Fund”, \$25,000,000 shall be made available for an Economic and Social Development Fund for Central America, of which \$20,000,000 shall be made available through the United States Agency for International Development and \$5,000,000 shall be made available through the Department of State for educational exchange programs: *Provided further*, That of the funds appropriated in subchapter A under the heading “International Narcotics Control and Law Enforcement”, \$2,500,000 shall be made available for assistance for Haiti, \$2,500,000 shall be made available for assistance for the Dominican Republic, and \$1,000,000 shall be made available for a United States contribution to the International Commission Against Impunity in Guatemala: *Provided further*, That none of the funds shall be made available for budget support or as cash payments: *Provided further*, That not more than 45 days after enactment of this Act, the Secretary of State shall report in writing

Deadline.
Reports.

to the Committees on Appropriations on the procedures in place to implement section 620J of the Foreign Assistance Act of 1961.

(b) ALLOCATION OF FUNDS.—Fifteen percent of the funds made available by this chapter for assistance for the countries of Central America, Haiti and the Dominican Republic under the headings “International Narcotics Control and Law Enforcement” and “Foreign Military Financing Program” may not be obligated until the Secretary of State reports in writing to the Committees on Appropriations that the government of such country is—

Reports.

(1) establishing police complaints commissions with authority and independence to receive complaints and carry out effective investigations;

(2) implementing reforms to improve the capacity and ensure the independence of the judiciary; and

(3) investigating and prosecuting members of the federal police and military forces who have been credibly alleged to have committed violations of human rights.

(c) REPORT.—The report required in subsection (b) shall include actions taken with respect to each requirement and the cases or issues brought to the attention of the Secretary of State for which the response or action taken has been inadequate.

(d) NOTIFICATION.—Funds made available for assistance for the countries of Central America, Haiti and the Dominican Republic in subchapter A shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

(e) SPENDING PLAN.—Not later than 45 days after enactment of this Act, the Secretary of State shall submit to the Committees on Appropriations a detailed spending plan for funds appropriated or otherwise made available for the countries of Central America, Haiti and the Dominican Republic in subchapter A, which shall include a strategy for combating drug trafficking and related violence and organized crime, judicial reform, institution building, anti-corruption, and rule of law activities, with concrete goals, actions to be taken, budget proposals and anticipated results.

Deadline.

(f) DEFINITION.—For the purposes of this section, the term “countries of Central America” means Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama.

BUYING POWER MAINTENANCE ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

SEC. 1408. (a) Of the funds appropriated under the heading “Diplomatic and Consular Programs” and allocated by section 3810 of the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28), \$26,000,000 shall be transferred to and merged with funds in the “Buying Power Maintenance Account”: *Provided*, That of the funds made available by this chapter up to an additional \$74,000,000 may be transferred to and merged with the “Buying Power Maintenance Account”, subject to the regular notification procedures of the Committees on Appropriations and in accordance with the procedures in section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706). Any funds transferred pursuant to this section shall be available, without fiscal year

limitation, pursuant to section 24 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696).

(b) Section 24(b)(7) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696(b)(7)) is amended by amending subparagraph (D) to read as follows:

“(D) The authorities contained in this paragraph may be exercised only with respect to funds appropriated or otherwise made available after fiscal year 2008.”.

22 USC 6204
note.

(c) The Broadcasting Board of Governors may transfer funds into its Buying Power Maintenance Account, notwithstanding the requirement that such funds be provided in advance in appropriations Acts. The authority in this subsection may be exercised only with respect to funds appropriated or otherwise made available after fiscal year 2008.

SERBIA

Reports.

SEC. 1409. Of the funds made available under the heading “Assistance for Eastern Europe and the Baltic States” by title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161), an amount equivalent to the unpaid costs of damage to the United States Embassy in Belgrade, Serbia, as estimated by the Secretary of State, resulting from the February 21, 2008 attack on such Embassy, shall be withheld from obligation for assistance for the central government of Serbia if the Secretary of State reports to the Committees on Appropriations that the Government of Serbia has failed to provide full compensation to the Department of State for damages to the United States Embassy resulting from the February 21, 2008 attack on such embassy. Section 8002 of this Act shall not apply to this section.

RESCISSIONS

SEC. 1410. (a) WORLD FOOD PROGRAM.—

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

(2) Of the funds appropriated under the heading “Andean Counterdrug Initiative” in prior Acts making appropriations for foreign operations, export financing, and related programs, \$20,000,000 are rescinded.

(b) SUDAN.—

(1) For an additional amount for “International Narcotics Control and Law Enforcement”, \$10,000,000, for assistance for Sudan to support formed police units, to remain available until September 30, 2009, and subject to prior consultation with the Committees on Appropriations.

(2) Of the funds appropriated under the heading “International Narcotics Control and Law Enforcement” in prior Acts making appropriations for foreign operations, export financing, and related programs, \$10,000,000 are rescinded.

(c) RESCISSION.—Of the unobligated balances of funds appropriated for “Iraq Relief and Reconstruction Fund” in prior Acts making appropriations for foreign operations, export financing, and related programs, \$50,000,000 are rescinded.

(d) EXCEPTION.—Section 8002 of this Act shall not apply to subsections (a) and (b) of this section.

DARFUR PEACEKEEPING

SEC. 1411. Funds appropriated under the headings “Foreign Military Financing Program” and “Peacekeeping Operations” by the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161) and by prior Acts making appropriations for foreign operations, export financing, and related programs may be used to transfer, equip, upgrade, refurbish or lease helicopters or related equipment necessary to support the operations of the African Union/United Nations peacekeeping operation in Darfur, Sudan, that was established pursuant to United Nations Security Council Resolution 1769. The President may utilize the authority of sections 506 or 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318, 2321j) or section 61 of the Arms Export Control Act (22 U.S.C. 2796) in order to provide such support, notwithstanding any other provision of law except for sections 502B(a)(2), 620A and 620J of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2), 2371, 2378d) and section 40A of the Arms Export Control Act (22 U.S.C. 2780). Any exercise of the authorities provided by section 506 of the Foreign Assistance Act pursuant to this section may include the authority to acquire helicopters by contract.

TIBET

SEC. 1412. (a) Of the funds appropriated by this Act or prior Acts making appropriations for the Department of State, foreign operations and related programs under the headings “Diplomatic and Consular Programs” and “Embassy Security, Construction, and Maintenance”, up to \$5,000,000 shall be made available to establish a United States Consulate in Lhasa, Tibet. Establishment.

(b) The Department of State should not consent to opening a consular post in the United States by the People’s Republic of China until such time as the People’s Republic of China consents to opening a United States consular post in Lhasa, Tibet.

JORDAN

(INCLUDING RESCISSION OF FUNDS)

SEC. 1413. (a) For an additional amount for “Economic Support Fund” for assistance for Jordan, \$25,000,000, to remain available until September 30, 2009.

(b) For an additional amount for “Foreign Military Financing Program” for assistance for Jordan, \$33,000,000, to remain available until September 30, 2009.

(c) Of the unobligated balances of funds appropriated under the heading “Millennium Challenge Corporation” in prior Acts making appropriations for foreign operations, export financing, and related programs, \$58,000,000 are rescinded.

(d) Section 8002 of this Act shall not apply to this section.

ALLOCATIONS

SEC. 1414. (a) Funds provided by this chapter for the following accounts shall be made available for programs and countries in

the amounts contained in the respective tables included in the explanatory statement printed in the Congressional Record accompanying this Act:

“Diplomatic and Consular Programs”
“Economic Support Fund”.

(b) Any proposed increases or decreases to the amounts contained in such tables in the explanatory statement printed in the Congressional Record accompanying this Act shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

REPROGRAMMING AUTHORITY

SEC. 1415. Notwithstanding any other provision of law, to include minimum funding requirements or funding directives, funds made available under the headings “Development Assistance” and “Economic Support Fund” in prior Acts making appropriations for foreign operations, export financing, and related programs may be made available to address critical food shortages, subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

SPENDING PLANS AND NOTIFICATION PROCEDURES

Deadlines.
Reports.

SEC. 1416. (a) SUBCHAPTER A SPENDING PLAN.—Not later than 45 days after the enactment of this Act, the Secretary of State shall submit to the Committees on Appropriations a report detailing planned expenditures for funds appropriated under the headings in subchapter A, except for funds appropriated under the headings “International Disaster Assistance”, “Migration and Refugee Assistance”, and “United States Emergency Refugee and Migration Assistance Fund”.

(b) SUBCHAPTER B SPENDING PLAN.—The Secretary of State shall submit to the Committees on Appropriations not later than November 1, 2008, and prior to the initial obligation of funds, a detailed spending plan for funds appropriated or otherwise made available in subchapter B, except for funds appropriated under the headings “International Disaster Assistance”, “Migration and Refugee Assistance”, and “United States Emergency Refugee and Migration Assistance Fund”.

(c) NOTIFICATION.—Funds made available in this chapter shall be subject to the regular notification procedures of the Committees on Appropriations and section 634A of the Foreign Assistance Act of 1961.

TERMS AND CONDITIONS

SEC. 1417. Unless otherwise provided for in this Act, funds appropriated or otherwise made available by this chapter shall be available under the authorities and conditions provided in the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2008 (division J of Public Law 110–161), except that section 699K of such Act shall not apply to funds in this chapter.

TITLE II—DOMESTIC MATTERS

CHAPTER 1—FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$150,000,000, to remain available until September 30, 2009: *Provided*, That of the amount provided: (1) \$66,792,000 shall be for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs; (2) \$28,019,000 shall be for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs; (3) \$12,736,000 shall be for the Center for Biologics Evaluation and Research and related field activities in the Office of Regulatory Affairs; (4) \$6,057,000 shall be for the Center for Veterinary Medicine and related field activities in the Office of Regulatory Affairs; (5) \$20,094,000 shall be for the Center for Devices and Radiological Health and related field activities in the Office of Regulatory Affairs; (6) \$3,396,000 shall be for the National Center for Toxicological Research; and (7) \$12,906,000 shall be for other activities, including the Office of the Commissioner, the Office of Scientific and Medical Programs; the Office of Policy, Planning and Preparedness; the Office of International and Special Programs; the Office of Operations; and central services for these offices.

CHAPTER 2—COMMERCE, JUSTICE, AND SCIENCE

DEPARTMENT OF COMMERCE

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Periodic Censuses and Programs”, \$210,000,000, to remain available until expended, for necessary expenses related to the 2010 Decennial Census: *Provided*, That not less than \$3,000,000 shall be transferred to the “Office of Inspector General” at the Department of Commerce for necessary expenses associated with oversight activities of the 2010 Decennial Census: *Provided further*, That not less than \$1,000,000 shall be used only for a reimbursable agreement with the Defense Contract Management Agency to provide continuing contract management oversight of the 2010 Decennial Census.

DEPARTMENT OF JUSTICE

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$178,000,000, to remain available until September 30, 2008.

OTHER AGENCIES

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SCIENCE, AERONAUTICS AND EXPLORATION

For an additional amount for “Science, Aeronautics and Exploration”, \$62,500,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For an additional amount for “Research and Related Activities”, \$22,500,000, of which \$5,000,000 shall be available solely for activities authorized by section 7002(b)(2)(A)(iv) of Public Law 110–69.

EDUCATION AND HUMAN RESOURCES

For an additional amount for “Education and Human Resources”, \$40,000,000: *Provided*, That of the amount provided, \$20,000,000 shall be available for activities authorized by section 10 of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–1) and \$20,000,000 shall be available for activities authorized by section 10A of the National Science Foundation Authorization Act of 2002 (42 U.S.C. 1862n–1a).

CHAPTER 3—ENERGY

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

SCIENCE

For an additional amount for “Science”, \$62,500,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

For an additional amount for “Defense Environmental Cleanup”, \$62,500,000, to remain available until expended.

CHAPTER 4—LABOR AND HEALTH AND HUMAN SERVICES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE
OPERATIONS

For an additional amount for “State Unemployment Insurance and Employment Service Operations” for grants to the States for the administration of State unemployment insurance, \$110,000,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund, to be used for unemployment insurance workloads experienced by the States through September 30, 2008, which shall be available for Federal obligation through December 31, 2008.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

NATIONAL INSTITUTES OF HEALTH

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Office of the Director”, \$150,000,000, which shall be transferred to the Institutes and Centers of the National Institutes of Health and to the Common Fund established under section 402A(c)(1) of the Public Health Service Act in proportion to the appropriations otherwise made to such Institutes, Centers, and Common Fund for fiscal year 2008: *Provided*, That these funds shall be used to support additional scientific research and shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the National Institutes of Health: *Provided further*, That none of these funds may be transferred to “National Institutes of Health—Buildings and Facilities”, the Center for Scientific Review, the Center for Information Technology, the Clinical Center, the Global Fund for HIV/AIDS, Tuberculosis and Malaria, or the Office of the Director (except for the transfer to the Common Fund).

CHAPTER 5—LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

PAYMENT TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF
CONGRESS

For payment to Annette Lantos, widow of Tom Lantos, late a Representative from the State of California, \$169,300: *Provided*, That section 8002 shall not apply to this appropriation.

Annette Lantos.

TITLE III—NATURAL DISASTER RELIEF AND RECOVERY

CHAPTER 1—AGRICULTURE

DEPARTMENT OF AGRICULTURE

FARM SERVICE AGENCY

EMERGENCY CONSERVATION PROGRAM

For an additional amount for the “Emergency Conservation Program”, \$89,413,000, to remain available until expended.

NATURAL RESOURCES CONSERVATION SERVICE

EMERGENCY WATERSHED PROTECTION PROGRAM

For an additional amount for the “Emergency Watershed Protection Program”, \$390,464,000, to remain available until expended.

CHAPTER 2—COMMERCE

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

Pursuant to section 703 of the Public Works and Economic Development Act (42 U.S.C. 3233), for an additional amount for “Economic Development Assistance Programs”, for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in areas covered by a declaration of major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) as a result of recent natural disasters, \$100,000,000, to remain available until expended.

CHAPTER 3—CORPS OF ENGINEERS

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION

For an additional amount for “Construction”, for necessary expenses to address emergency situations at Corps of Engineers projects and rehabilitate and repair damages to Corps projects caused by recent natural disasters, \$61,700,000, to remain available until expended.

For an additional amount for “Construction”, for necessary expenses related to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, \$2,835,000,000, to become available on October 1, 2008, and to remain available until

expended: *Provided*, That the Secretary of the Army is directed to use \$1,997,000,000 of the funds provided herein to modify authorized projects in southeast Louisiana to provide hurricane, storm and flood damage reduction in the greater New Orleans and surrounding areas to the levels of protection necessary to achieve the certification required for participation in the National Flood Insurance Program under the base flood elevations current at the time of enactment of this Act, and shall use \$1,077,000,000 of those funds for the Lake Pontchartrain and Vicinity project and \$920,000,000 of those funds for the West Bank and Vicinity project: *Provided further*, That, in addition, \$838,000,000 of the funds provided herein shall be for elements of Southeast Louisiana Urban Drainage project within the geographic perimeter of the West Bank and Vicinity and Lake Pontchartrain and Vicinity projects, to provide for interior drainage of runoff from rainfall with a ten percent annual exceedance probability: *Provided further*, That the amounts provided herein shall be subject to a 65 percent Federal / 35 percent non-Federal cost share for the specified purposes: *Provided further*, That beginning not later than 60 days after the date of enactment of this Act, the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide monthly reports to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds: *Provided further*, That the expenditure of funds as provided above may be made without regard to individual amounts or purposes except that any reallocation of funds that is necessary to accomplish the established goals is authorized subject to the approval of the House and Senate Committees on Appropriations.

Deadlines.
Reports.

MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for “Mississippi River and Tributaries” for recovery from natural disasters, \$17,590,000, to remain available until expended, to repair damages to Federal projects caused by recent natural disasters.

OPERATION AND MAINTENANCE

For an additional amount for “Operation and Maintenance” to dredge navigation channels and repair other Corps projects related to natural disasters, \$298,344,000, to remain available until expended: *Provided*, That the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide a monthly report to the House and Senate Committees on Appropriations detailing the allocation and obligation of these funds, beginning not later than 60 days after enactment of this Act.

Reports.
Deadlines.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for “Flood Control and Coastal Emergencies”, as authorized by section 5 of the Act of August 18, 1941 (33 U.S.C. 701n), for necessary expenses to prepare for flood, hurricane and other natural disasters and support emergency operations, repair and other activities in response to flood and hurricane emergencies as authorized by law, \$226,854,800, to remain available until expended.

For an additional amount for “Flood Control and Coastal Emergencies”, as authorized by section 5 of the Act of August 18, 1941

(33 U.S.C. 701n), for necessary expenses relating to the consequences of Hurricane Katrina and other hurricanes of the 2005 season, \$2,926,000,000, to become available on October 1, 2008, and to remain available until expended: *Provided*, That funds provided herein shall be used to reduce the risk of hurricane and storm damages to the greater New Orleans metropolitan area, at full Federal expense, for the following: \$704,000,000 shall be used to modify the 17th Street, Orleans Avenue, and London Avenue drainage canals and install pumps and closure structures at or near the lakefront; \$90,000,000 shall be used for storm-proofing interior pump stations to ensure the operability of the stations during hurricanes, storms, and high water events; \$459,000,000 shall be used for armoring critical elements of the New Orleans hurricane and storm damage reduction system; \$53,000,000 shall be used to improve protection at the Inner Harbor Navigation Canal; \$456,000,000 shall be used to replace or modify certain non-Federal levees in Plaquemines Parish to incorporate the levees into the existing New Orleans to Venice hurricane protection project; \$412,000,000 shall be used for reinforcing or replacing flood walls, as necessary, in the existing Lake Pontchartrain and Vicinity project and the existing West Bank and Vicinity project to improve the performance of the systems; \$393,000,000 shall be used for repair and restoration of authorized protections and floodwalls; and \$359,000,000 shall be to complete the authorized protection for the Lake Ponchartrain and Vicinity, West Bank and Vicinity, and the New Orleans to Venice projects: *Provided further*, That the Secretary of the Army, within available funds, is directed to continue the NEPA alternative evaluation of all options with particular attention to Options 1, 2 and 2a of the report to Congress, dated August 30, 2007, provided in response to the requirements of chapter 3, section 4303 of Public Law 110-28, and within 90 days of enactment of this Act provide the House and Senate Committees on Appropriations cost estimates to implement Options 1, 2 and 2a of the above cited report: *Provided further*, That beginning not later than 60 days after the date of enactment of this Act, the Chief of Engineers, acting through the Assistant Secretary of the Army for Civil Works, shall provide monthly reports to the Committees on Appropriations of the House of Representatives and the Senate detailing the allocation and obligation of these funds: *Provided further*, That any project using funds appropriated under this heading shall be initiated only after non-Federal interests have entered into binding agreements with the Assistant Secretary of the Army for Civil Works requiring the non-Federal interests to pay 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of completed elements and to hold and save the United States free from damages due to the construction, operation, and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors: *Provided further*, That the expenditure of funds as provided above may be made without regard to individual amounts or purposes except that any reallocation of funds that is necessary to accomplish the established goals is authorized subject to the approval of the House and Senate Committees on Appropriations.

Deadline.
Cost estimates.

Deadlines.
Reports.

EXPENSES

For an additional amount for “Expenses” for increased efforts by the Mississippi Valley Division to oversee emergency response and recovery activities related to the consequences of hurricanes in the Gulf of Mexico in 2005, \$1,500,000 to remain available until expended.

CHAPTER 4—SMALL BUSINESS

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans authorized by section 7(b) of the Small Business Act, for necessary expenses related to flooding in Midwestern States and other natural disasters, \$164,939,000, to remain available until expended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for expenses to carry out the direct loan program in response to flooding in Midwestern States and other natural disasters, including onsite assistance to disaster victims, increased staff at call centers, processing centers, and field inspections teams, and attorneys to assist in loan closings, \$101,814,000, to remain available until expended, of which \$1,000,000 is for the Office of Inspector General of the Small Business Administration for audits and reviews of disaster loans and the disaster loan program and shall be paid to appropriations for the Office of Inspector General; of which \$94,814,000 is for direct administrative expenses of loan making and servicing to carry out the direct loan program, which may be paid to appropriations for Salaries and Expenses; and of which \$6,000,000 is for indirect administrative expenses, which may be paid to appropriations for Salaries and Expenses.

CHAPTER 5—FEMA DISASTER RELIEF

DEPARTMENT OF HOMELAND SECURITY

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For an additional amount for “Disaster Relief”, \$897,000,000, to remain available until expended.

CHAPTER 6—HOUSING AND URBAN DEVELOPMENT

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PERMANENT SUPPORTIVE HOUSING

For the provision of 3,000 units of permanent supportive housing as referenced in the Road Home Program of the Louisiana Recovery Authority approved by the Secretary of Housing and Urban Development, \$73,000,000, to remain available until

Louisiana.

expended, of which \$20,000,000 shall be for project-based vouchers under section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)), including administrative expenses not to exceed \$3,000,000, and \$50,000,000 shall be for grants under the Shelter Plus Care program as authorized under subtitle F of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11403 et seq.): *Provided*, That the Secretary of Housing and Urban Development shall, upon request, make funds available under this paragraph to the State of Louisiana or its designee or designees, upon request: *Provided further*, That notwithstanding any other provision of law, for the purpose of administering the amounts provided under this paragraph, the State of Louisiana or its designee or designees may act in all respects as a public housing agency as defined in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)): *Provided further*, That subparagraphs (B) and (D) of section 8(o)(13) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(13)) shall not apply with respect to vouchers made available under this paragraph.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

Waiver authority.

Waiver authority.

Federal Register,
publication.
Deadline.

For an additional amount for “Community Development Fund”, for necessary expenses related to disaster relief, long-term recovery, and restoration of infrastructure in areas covered by a declaration of major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) as a result of recent natural disasters, \$300,000,000, to remain available until expended, for activities authorized under title I of the Housing and Community Development Act of 1974 (Public Law 93-383): *Provided*, That funds provided under this heading shall be administered through an entity or entities designated by the Governor of each State: *Provided further*, That such funds may not be used for activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency or the Army Corps of Engineers: *Provided further*, That funds allocated under this heading shall not adversely affect the amount of any formula assistance received by a State under this heading: *Provided further*, That each State may use up to five percent of its allocation for administrative costs: *Provided further*, That in administering the funds under this heading, the Secretary of Housing and Urban Development shall waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a request by the State that such waiver is required to facilitate the use of such funds or guarantees, and a finding by the Secretary that such waiver would not be inconsistent with the overall purpose of the statute, as modified: *Provided further*, That the Secretary may waive the requirement that activities benefit persons of low and moderate income, except that at least 50 percent of the funds made available under this heading must benefit primarily persons of low and moderate income unless the Secretary otherwise makes a finding of compelling need: *Provided further*, That the Secretary

shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver: *Provided further*, That every waiver made by the Secretary must be reconsidered according to the three previous provisos on the two-year anniversary of the day the Secretary published the waiver in the Federal Register: *Provided further*, That prior to the obligation of funds each State shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address long-term recovery and restoration of infrastructure: *Provided further*, That each State will report quarterly to the Committees on Appropriations on all awards and uses of funds made available under this heading, including specifically identifying all awards of sole-source contracts and the rationale for making the award on a sole-source basis: *Provided further*, That the Secretary shall notify the Committees on Appropriations on any proposed allocation of any funds and any related waivers made pursuant to these provisions under this heading no later than 5 days before such waiver is made: *Provided further*, That the Secretary shall establish procedures to prevent recipients from receiving any duplication of benefits and report quarterly to the Committees on Appropriations with regard to all steps taken to prevent fraud and abuse of funds made available under this heading including duplication of benefits.

Plans.

Reports.
Deadlines.Notification.
Deadline.Procedures.
Reports.
Deadlines.

TITLE IV—EMERGENCY UNEMPLOYMENT COMPENSATION

FEDERAL-STATE AGREEMENTS

SEC. 4001. (a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the “Secretary”). Any State which is a party to an agreement under this title may, upon providing 30 days’ written notice to the Secretary, terminate such agreement.

Deadline.
Notice.

(b) PROVISIONS OF AGREEMENT.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of emergency unemployment compensation to individuals who—

(1) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before May 1, 2007);

(2) have no rights to regular compensation or extended compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law (except as provided under subsection (e)); and

(3) are not receiving compensation with respect to such week under the unemployment compensation law of Canada.

(c) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1), an individual shall be deemed to have exhausted such individual’s rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual’s base period; or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) WEEKLY BENEFIT AMOUNT, ETC.—For purposes of any agreement under this title—

(1) the amount of emergency unemployment compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to such individual during such individual's benefit year under the State law for a week of total unemployment;

Applicability.

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for emergency unemployment compensation and the payment thereof, except—

(A) that an individual shall not be eligible for emergency unemployment compensation under this title unless, in the base period with respect to which the individual exhausted all rights to regular compensation under the State law, the individual had 20 weeks of full-time insured employment or the equivalent in insured wages, as determined under the provisions of the State law implementing section 202(a)(5) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note); and

(B) where otherwise inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of emergency unemployment compensation payable to any individual for whom an emergency unemployment compensation account is established under section 4002 shall not exceed the amount established in such account for such individual.

(e) ELECTION BY STATES.—Notwithstanding any other provision of Federal law (and if State law permits), the Governor of a State that is in an extended benefit period may provide for the payment of emergency unemployment compensation prior to extended compensation to individuals who otherwise meet the requirements of this section.

(f) UNAUTHORIZED ALIENS INELIGIBLE.—A State shall require as a condition of eligibility for emergency unemployment compensation under this Act that each alien who receives such compensation must be legally authorized to work in the United States, as defined for purposes of the Federal Unemployment Tax Act (26 U.S.C. 3301 et seq.). In determining whether an alien meets the requirements of this subsection, a State must follow the procedures provided in section 1137(d) of the Social Security Act (42 U.S.C. 1320b-7(d)).

EMERGENCY UNEMPLOYMENT COMPENSATION ACCOUNT

26 USC 3304
note.

SEC. 4002. (a) IN GENERAL.—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for emergency unemployment compensation, an emergency unemployment compensation account with respect to such individual's benefit year.

(b) AMOUNT IN ACCOUNT.—

(1) IN GENERAL.—The amount established in an account under subsection (a) shall be equal to the lesser of—

(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under such law, or

(B) 13 times the individual's average weekly benefit amount for the benefit year.

(2) WEEKLY BENEFIT AMOUNT.—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF
EMERGENCY UNEMPLOYMENT COMPENSATION

SEC. 4003. (a) GENERAL RULE.—There shall be paid to each State that has entered into an agreement under this title an amount equal to 100 percent of the emergency unemployment compensation paid to individuals by the State pursuant to such agreement.

26 USC 3304
note.

(b) TREATMENT OF REIMBURSABLE COMPENSATION.—No payment shall be made to any State under this section in respect of any compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

(c) DETERMINATION OF AMOUNT.—Sums payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

FINANCING PROVISIONS

SEC. 4004. (a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a)) of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a))) shall be used for the making of payments to States having agreements entered into under this title.

26 USC 3304
note.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the Government Accountability Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as so established) to the

account of such State in the Unemployment Trust Fund (as so established).

(c) ASSISTANCE TO STATES.—There are appropriated out of the employment security administration account (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a)) of the Unemployment Trust Fund, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act (42 U.S.C. 501 et seq.)) in meeting the costs of administration of agreements under this title.

(d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code; and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies. Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

FRAUD AND OVERPAYMENTS

26 USC 3304
note.

SEC. 4005. (a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of emergency unemployment compensation under this title to which such individual was not entitled, such individual—

(1) shall be ineligible for further emergency unemployment compensation under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

Waiver authority.

(b) REPAYMENT.—In the case of individuals who have received amounts of emergency unemployment compensation under this title to which they were not entitled, the State shall require such individuals to repay the amounts of such emergency unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such emergency unemployment compensation was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any emergency unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any State or Federal unemployment compensation law administered by the State

agency or under any other State or Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the emergency unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final. Notice.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

DEFINITIONS

SEC. 4006. In this title, the terms “compensation”, “regular compensation”, “extended compensation”, “benefit year”, “base period”, “State”, “State agency”, “State law”, and “week” have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note). 26 USC 3304 note.

APPLICABILITY

SEC. 4007. (a) IN GENERAL.—Except as provided in subsection (b), an agreement entered into under this title shall apply to weeks of unemployment— 26 USC 3304 note.

(1) beginning after the date on which such agreement is entered into; and Effective date.

(2) ending on or before March 31, 2009.

(b) TRANSITION FOR AMOUNT REMAINING IN ACCOUNT.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of an individual who has amounts remaining in an account established under section 4002 as of the last day of the last week (as determined in accordance with the applicable State law) ending on or before March 31, 2009, emergency unemployment compensation shall continue to be payable to such individual from such amounts for any week beginning after such last day for which the individual meets the eligibility requirements of this title.

(2) LIMIT ON COMPENSATION.—No compensation shall be payable by reason of paragraph (1) for any week beginning after June 30, 2009. Termination date.

TITLE V—VETERANS EDUCATIONAL ASSISTANCE

SHORT TITLE

SEC. 5001. This title may be cited as the “Post-9/11 Veterans Educational Assistance Act of 2008”.

Post-9/11
Veterans
Educational
Assistance
Act of 2008.
38 USC 101 note.

FINDINGS

SEC. 5002. Congress makes the following findings:

38 USC 3301
note.

(1) On September 11, 2001, terrorists attacked the United States, and the brave members of the Armed Forces of the United States were called to the defense of the Nation.

(2) Service on active duty in the Armed Forces has been especially arduous for the members of the Armed Forces since September 11, 2001.

(3) The United States has a proud history of offering educational assistance to millions of veterans, as demonstrated by the many “G.I. Bills” enacted since World War II. Educational assistance for veterans helps reduce the costs of war, assist veterans in readjusting to civilian life after wartime service, and boost the United States economy, and has a positive effect on recruitment for the Armed Forces.

(4) The current educational assistance program for veterans is outmoded and designed for peacetime service in the Armed Forces.

(5) The people of the United States greatly value military service and recognize the difficult challenges involved in readjusting to civilian life after wartime service in the Armed Forces.

(6) It is in the national interest for the United States to provide veterans who serve on active duty in the Armed Forces after September 11, 2001, with enhanced educational assistance benefits that are worthy of such service and are commensurate with the educational assistance benefits provided by a grateful Nation to veterans of World War II.

EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE ARMED FORCES WHO
SERVE AFTER SEPTEMBER 11, 2001

SEC. 5003. (a) EDUCATIONAL ASSISTANCE AUTHORIZED.—

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

“CHAPTER 33—POST-9/11 EDUCATIONAL ASSISTANCE

“SUBCHAPTER I—DEFINITIONS

“Sec.

“3301. Definitions.

“SUBCHAPTER II—EDUCATIONAL ASSISTANCE

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

“3312. Educational assistance: duration.

“3313. Educational assistance: amount; payment.

“3314. Tutorial assistance.

“3315. Licensure and certification tests.

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

“3317. Public-private contributions for additional educational assistance.

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

“3319. Authority to transfer unused education benefits to family members.

“SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

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

“3322. Bar to duplication of educational assistance benefits.

“3323. Administration.

“3324. Allocation of administration and costs.

“SUBCHAPTER I—DEFINITIONS

“§ 3301. Definitions

“In this chapter:

“(1) The term ‘active duty’ has the meanings as follows (subject to the limitations specified in sections 3002(6) and 3311(b)):

“(A) In the case of members of the regular components of the Armed Forces, the meaning given such term in section 101(21)(A).

“(B) In the case of members of the reserve components of the Armed Forces, service on active duty under a call or order to active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10.

“(2) The term ‘entry level and skill training’ means the following:

“(A) In the case of members of the Army, Basic Combat Training and Advanced Individual Training.

“(B) In the case of members of the Navy, Recruit Training (or Boot Camp) and Skill Training (or so-called ‘A’ School).

“(C) In the case of members of the Air Force, Basic Military Training and Technical Training.

“(D) In the case of members of the Marine Corps, Recruit Training and Marine Corps Training (or School of Infantry Training).

“(E) In the case of members of the Coast Guard, Basic Training.

“(3) The term ‘program of education’ has the meaning given such term in section 3002, except to the extent otherwise provided in section 3313.

“(4) The term ‘Secretary of Defense’ means the Secretary of Defense, except that the term means the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy.

“SUBCHAPTER II—EDUCATIONAL ASSISTANCE

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

“(a) ENTITLEMENT.—Subject to subsections (d) and (e), each individual described in subsection (b) is entitled to educational assistance under this chapter.

“(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual as follows:

“(1) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 36 months on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty; or

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

“(2) An individual who—

“(A) commencing on or after September 11, 2001, serves at least 30 continuous days on active duty in the Armed Forces; and

“(B) after completion of service described in subparagraph (A), is discharged or released from active duty in the Armed Forces for a service-connected disability.

“(3) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 30 months, but less than 36 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 36 months; or

“(ii) before completion of service on active duty of an aggregate of 36 months, is discharged or released from active duty as described in subsection (c).

“(4) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 24 months, but less than 30 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 30 months; or

“(ii) before completion of service on active duty of an aggregate of 30 months, is discharged or released from active duty as described in subsection (c).

“(5) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 18 months, but less than 24 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 24 months; or

“(ii) before completion of service on active duty of an aggregate of 24 months, is discharged or released from active duty as described in subsection (c).

“(6) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 12 months, but less than 18 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 18 months; or

“(ii) before completion of service on active duty of an aggregate of 18 months, is discharged or released from active duty as described in subsection (c).

“(7) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 6 months, but less than 12 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 12 months; or

“(ii) before completion of service on active duty of an aggregate of 12 months, is discharged or released from active duty as described in subsection (c).

“(8) An individual who—

“(A) commencing on or after September 11, 2001, serves an aggregate of at least 90 days, but less than 6 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

“(B) after completion of service described in subparagraph (A)—

“(i) continues on active duty for an aggregate of less than 6 months; or

“(ii) before completion of service on active duty of an aggregate of 6 months, is discharged or released from active duty as described in subsection (c).

“(c) COVERED DISCHARGES AND RELEASES.—A discharge or release from active duty of an individual described in this subsection is a discharge or release as follows:

“(1) A discharge from active duty in the Armed Forces with an honorable discharge.

“(2) A release after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service and placement on the retired list, transfer to the Fleet Reserve or Fleet Marine Corps Reserve, or placement on the temporary disability retired list.

“(3) A release from active duty in the Armed Forces for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

“(4) A discharge or release from active duty in the Armed Forces for—

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

“(B) hardship; or

“(C) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense.

“(d) PROHIBITION ON TREATMENT OF CERTAIN SERVICE AS PERIOD OF ACTIVE DUTY.—The following periods of service shall not be considered a part of the period of active duty on which

an individual's entitlement to educational assistance under this chapter is based:

“(1) A period of service on active duty of an officer pursuant to an agreement under section 2107(b) of title 10.

“(2) A period of service on active duty of an officer pursuant to an agreement under section 4348, 6959, or 9348 of title 10.

“(3) A period of service that is terminated because of a defective enlistment and induction based on—

“(A) the individual's being a minor for purposes of service in the Armed Forces;

“(B) an erroneous enlistment or induction; or

“(C) a defective enlistment agreement.

“(e) TREATMENT OF INDIVIDUALS ENTITLED UNDER MULTIPLE PROVISIONS.—In the event an individual entitled to educational assistance under this chapter is entitled by reason of both paragraphs (4) and (5) of subsection (b), the individual shall be treated as being entitled to educational assistance under this chapter by reason of paragraph (5) of subsection (b).

“§ 3312. Educational assistance: duration

“(a) IN GENERAL.—Subject to section 3695 and except as provided in subsections (b) and (c), an individual entitled to educational assistance under this chapter is entitled to a number of months of educational assistance under section 3313 equal to 36 months.

“(b) CONTINUING RECEIPT.—The receipt of educational assistance under section 3313 by an individual entitled to educational assistance under this chapter is subject to the provisions of section 3321(b)(2).

“(c) DISCONTINUATION OF EDUCATION FOR ACTIVE DUTY.—

“(1) IN GENERAL.—Any payment of educational assistance described in paragraph (2) shall not—

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

“(B) be counted against the aggregate period for which section 3695 limits the individual's receipt of educational assistance under this chapter.

“(2) DESCRIPTION OF PAYMENT OF EDUCATIONAL ASSISTANCE.—Subject to paragraph (3), the payment of educational assistance described in this paragraph is the payment of such assistance to an individual for pursuit of a course or courses under this chapter if the Secretary finds that the individual—

“(A)(i) in the case of an individual not serving on active duty, had to discontinue such course pursuit as a result of being called or ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10; or

“(ii) in the case of an individual serving on active duty, had to discontinue such course pursuit as a result of being ordered to a new duty location or assignment or to perform an increased amount of work; and

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

“(3) PERIOD FOR WHICH PAYMENT NOT CHARGED.—The period for which, by reason of this subsection, educational assistance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall not exceed the portion of the period of enrollment in the course or courses from which the individual failed to receive credit or with respect to which the individual lost training time, as determined under paragraph (2)(B).

“§ 3313. Educational assistance: amount; payment

“(a) PAYMENT.—The Secretary shall pay to each individual entitled to educational assistance under this chapter who is pursuing an approved program of education (other than a program covered by subsections (e) and (f)) the amounts specified in subsection (c) to meet the expenses of such individual’s subsistence, tuition, fees, and other educational costs for pursuit of such program of education.

“(b) APPROVED PROGRAMS OF EDUCATION.—A program of education is an approved program of education for purposes of this chapter if the program of education is offered by an institution of higher learning (as that term is defined in section 3452(f)) and is approved for purposes of chapter 30 (including approval by the State approving agency concerned).

“(c) AMOUNT OF EDUCATIONAL ASSISTANCE.—The amounts payable under this subsection for pursuit of an approved program of education are amounts as follows:

“(1) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(1) or 3311(b)(2), amounts as follows:

“(A) An amount equal to the established charges for the program of education, except that the amount payable under this subparagraph may not exceed the maximum amount of established charges regularly charged in-State students for full-time pursuit of approved programs of education for undergraduates by the public institution of higher education offering approved programs of education for undergraduates in the State in which the individual is enrolled that has the highest rate of regularly-charged established charges for such programs of education among all public institutions of higher education in such State offering such programs of education.

“(B) A monthly stipend in an amount as follows:

“(i) For each month the individual pursues the program of education (other than, in the case of assistance under this section only, a program of education offered through distance learning), a monthly housing stipend amount equal to the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution of higher education at which the individual is enrolled.

“(ii) For the first month of each quarter, semester, or term, as applicable, of the program of education pursued by the individual, a lump sum amount for books, supplies, equipment, and other educational costs

with respect to such quarter, semester, or term in the amount equal to—

“(I) \$1,000, multiplied by

“(II) the fraction which is the portion of a complete academic year under the program of education that such quarter, semester, or term constitutes.

“(2) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(3), amounts equal to 90 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(3) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(4), amounts equal to 80 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(4) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(5), amounts equal to 70 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(5) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(6), amounts equal to 60 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(6) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(7), amounts equal to 50 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(7) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(8), amounts equal to 40 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

“(d) FREQUENCY OF PAYMENT.—

“(1) QUARTER, SEMESTER, OR TERM PAYMENTS.—Payment of the amounts payable under subsection (c)(1)(A), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

“(2) MONTHLY PAYMENTS.—Payment of the amount payable under subsection (c)(1)(B), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made on a monthly basis.

“(3) REGULATIONS.—The Secretary shall prescribe in regulations methods for determining the number of months (including fractions thereof) of entitlement of an individual to educational assistance this chapter that are chargeable under this chapter for an advance payment of amounts under paragraphs (1) and (2) for pursuit of a program of education on a quarter, semester, term, or other basis.

“(e) PROGRAMS OF EDUCATION PURSUED ON ACTIVE DUTY.—

“(1) IN GENERAL.—Educational assistance is payable under this chapter for pursuit of an approved program of education while on active duty.

“(2) AMOUNT OF ASSISTANCE.—The amount of educational assistance payable under this chapter to an individual pursuing a program of education while on active duty is the lesser of—

“(A) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or

“(B) the amount of the charges of the educational institution as elected by the individual in the manner specified in section 3014(b)(1)

“(3) QUARTER, SEMESTER, OR TERM PAYMENTS.—Payment of the amount payable under paragraph (2) for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

“(4) MONTHLY PAYMENTS.—For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at the rate of one month for each such month.

“(f) PROGRAMS OF EDUCATION PURSUED ON HALF-TIME BASIS OR LESS.—

“(1) IN GENERAL.—Educational assistance is payable under this chapter for pursuit of an approved program of education on half-time basis or less.

“(2) AMOUNT OF ASSISTANCE.—The educational assistance payable under this chapter to an individual pursuing a program of education on half-time basis or less is the amounts as follows:

“(A) The amount equal to the lesser of—

“(i) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or

“(ii) the maximum amount that would be payable to the individual for the program of education under paragraph (1)(A) of subsection (c), or under the provisions of paragraphs (2) through (7) of subsection (c) applicable to the individual, for the program of education if the individual were entitled to amounts for the program of education under subsection (c) rather than this subsection.

“(B) A stipend in an amount equal to the amount of the appropriately reduced amount of the lump sum

amount for books, supplies, equipment, and other educational costs otherwise payable to the individual under subsection (c).

“(3) QUARTER, TERM, OR SEMESTER PAYMENTS.—Payment of the amounts payable to an individual under paragraph (2) for pursuit of a program of education on half-time basis or less shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

“(4) MONTHLY PAYMENTS.—For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at a percentage of a month equal to—

“(A) the number of course hours borne by the individual in pursuit of the program of education involved, divided by

“(B) the number of course hours for full-time pursuit of such program of education.

“(g) PAYMENT OF ESTABLISHED CHARGES TO EDUCATIONAL INSTITUTIONS.—Amounts payable under subsections (c)(1)(A) (and of similar amounts payable under paragraphs (2) through (7) of subsection (c)), (e)(2), and (f)(2)(A) shall be paid directly to the educational institution concerned.

“(h) ESTABLISHED CHARGES DEFINED.—

“(1) IN GENERAL.—In this section, the term ‘established charges’, in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced nonveterans enrolled in the program of education would be required to pay.

“(2) BASIS OF DETERMINATION.—Established charges shall be determined for purposes of this subsection on the following basis:

“(A) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

“(B) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

“§ 3314. Tutorial assistance

“(a) IN GENERAL.—Subject to subsection (b), an individual entitled to educational assistance under this chapter shall also be entitled to benefits provided an eligible veteran under section 3492.

“(b) CONDITIONS.—

“(1) IN GENERAL.—The provision of benefits under subsection (a) shall be subject to the conditions applicable to an eligible veteran under section 3492.

“(2) CERTIFICATION.—In addition to the conditions specified in paragraph (1), benefits may not be provided to an individual under subsection (a) unless the professor or other individual teaching, leading, or giving the course for which such benefits are provided certifies that—

“(A) such benefits are essential to correct a deficiency of the individual in such course; and

“(B) such course is required as a part of, or is prerequisite or indispensable to the satisfactory pursuit of, an approved program of education.

“(c) AMOUNT.—

“(1) IN GENERAL.—The amount of benefits described in subsection (a) that are payable under this section may not exceed \$100 per month, for a maximum of 12 months, or until a maximum of \$1,200 is utilized.

“(2) AS ADDITIONAL ASSISTANCE.—The amount provided an individual under this subsection is in addition to the amounts of educational assistance paid the individual under section 3313.

“(d) NO CHARGE AGAINST ENTITLEMENT.—Any benefits provided an individual under subsection (a) are in addition to any other educational assistance benefits provided the individual under this chapter.

“§ 3315. Licensure and certification tests

“(a) IN GENERAL.—An individual entitled to educational assistance under this chapter shall also be entitled to payment for one licensing or certification test described in section 3452(b).

“(b) LIMITATION ON AMOUNT.—The amount payable under subsection (a) for a licensing or certification test may not exceed the lesser of—

“(1) \$2,000; or

“(2) the fee charged for the test.

“(c) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under subsection (a) is in addition to any other educational assistance benefits provided the individual under this chapter.

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

“(a) INCREASED ASSISTANCE FOR MEMBERS WITH CRITICAL SKILLS OR SPECIALTY.—

“(1) IN GENERAL.—In the case of an individual who has a skill or specialty designated by the Secretary concerned as a skill or specialty in which there is a critical shortage of personnel or for which it is difficult to recruit or, in the case of critical units, retain personnel, the Secretary concerned may increase the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c), or under paragraphs (2) through (7) of such section (as applicable).

“(2) MAXIMUM AMOUNT OF INCREASE IN ASSISTANCE.—The amount of the increase in educational assistance authorized by paragraph (1) may not exceed the amount equal to the monthly amount of increased basic educational assistance providable under section 3015(d)(1) at the time of the increase under paragraph (1).

“(b) SUPPLEMENTAL ASSISTANCE FOR ADDITIONAL SERVICE.—

“(1) IN GENERAL.—The Secretary concerned may provide for the payment to an individual entitled to educational assistance under this chapter of supplemental educational assistance

for additional service authorized by subchapter III of chapter 30. The amount so payable shall be payable as an increase in the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c), or under paragraphs (2) through (7) of such section (as applicable).

“(2) ELIGIBILITY.—Eligibility for supplemental educational assistance under this subsection shall be determined in accordance with the provisions of subchapter III of chapter 30, except that any reference in such provisions to eligibility for basic educational assistance under a provision of subchapter II of chapter 30 shall be treated as a reference to eligibility for educational assistance under the appropriate provision of this chapter.

“(3) AMOUNT.—The amount of supplemental educational assistance payable under this subsection shall be the amount equal to the monthly amount of supplemental educational payable under section 3022.

“(c) REGULATIONS.—The Secretaries concerned shall administer this section in accordance with such regulations as the Secretary of Defense shall prescribe.

“§ 3317. Public-private contributions for additional educational assistance

“(a) ESTABLISHMENT OF PROGRAM.—In instances where the educational assistance provided pursuant to section 3313(c)(1)(A) does not cover the full cost of established charges (as specified in section 3313), the Secretary shall carry out a program under which colleges and universities can, voluntarily, enter into an agreement with the Secretary to cover a portion of those established charges not otherwise covered under section 3313(c)(1)(A), which contributions shall be matched by equivalent contributions toward such costs by the Secretary. The program shall only apply to covered individuals described in paragraphs (1) and (2) of section 3311(b).

Applicability.

“(b) DESIGNATION OF PROGRAM.—The program under this section shall be known as the ‘Yellow Ribbon G.I. Education Enhancement Program’.

“(c) AGREEMENTS.—The Secretary shall enter into an agreement with each college or university seeking to participate in the program under this section. Each agreement shall specify the following:

“(1) The manner (whether by direct grant, scholarship, or otherwise) of the contributions to be made by the college or university concerned.

“(2) The maximum amount of the contribution to be made by the college or university concerned with respect to any particular individual in any given academic year.

“(3) The maximum number of individuals for whom the college or university concerned will make contributions in any given academic year.

“(4) Such other matters as the Secretary and the college or university concerned jointly consider appropriate.

“(d) MATCHING CONTRIBUTIONS.—

“(1) IN GENERAL.—In instances where the educational assistance provided an individual under section 3313(c)(1)(A) does not cover the full cost of tuition and mandatory fees at a college or university, the Secretary shall provide up to 50 percent of the remaining costs for tuition and mandatory

fees if the college or university voluntarily enters into an agreement with the Secretary to match an equal percentage of any of the remaining costs for such tuition and fees.

“(2) USE OF APPROPRIATED FUNDS.—Amounts available to the Secretary under section 3324(b) for payment of the costs of this chapter shall be available to the Secretary for purposes of paragraph (1).

“(e) OUTREACH.—The Secretary shall make available on the Internet website of the Department available to the public a current list of the colleges and universities participating in the program under this section. The list shall specify, for each college or university so listed, appropriate information on the agreement between the Secretary and such college or university under subsection (c).

Web site.
Public
information.
Lists.

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

“(a) ADDITIONAL ASSISTANCE.—Each individual described in subsection (b) shall be paid additional assistance under this section in the amount of \$500.

“(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual entitled to educational assistance under this chapter—

“(1) who resides in a county (or similar entity utilized by the Bureau of the Census) with less than seven persons per square mile, according to the most recent decennial Census; and

“(2) who—

“(A) physically relocates a distance of at least 500 miles in order to pursue a program of education for which the individual utilizes educational assistance under this chapter; or

“(B) travels by air to physically attend an institution of higher education for pursuit of such a program of education because the individual cannot travel to such institution by automobile or other established form of transportation due to an absence of road or other infrastructure.

“(c) PROOF OF RESIDENCE.—For purposes of subsection (b)(1), an individual may demonstrate the individual’s place of residence utilizing any of the following:

“(1) DD Form 214, Certification of Release or Discharge from Active Duty.

“(2) The most recent Federal income tax return.

“(3) Such other evidence as the Secretary shall prescribe for purposes of this section.

“(d) SINGLE PAYMENT OF ASSISTANCE.—An individual is entitled to only one payment of additional assistance under this section.

“(e) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under this section is in addition to any other educational assistance benefits provided the individual under this chapter.

“§ 3319. Authority to transfer unused education benefits to family members

“(a) IN GENERAL.—Subject to the provisions of this section, the Secretary of Defense may authorize the Secretary concerned, to promote recruitment and retention of members of the Armed Forces, to permit an individual described in subsection (b) who

is entitled to educational assistance under this chapter to elect to transfer to one or more of the dependents specified in subsection (c) a portion of such individual's entitlement to such assistance, subject to the limitation under subsection (d).

“(b) ELIGIBLE INDIVIDUALS.—An individual referred to in subsection (a) is any member of the Armed Forces who, at the time of the approval of the individual's request to transfer entitlement to educational assistance under this section, has completed at least—

“(1) six years of service in the armed forces and enters into an agreement to serve at least four more years as a member of the Armed Forces; or

“(2) the years of service as determined in regulations pursuant to section (k).

“(c) ELIGIBLE DEPENDENTS.—An individual approved to transfer an entitlement to educational assistance under this section may transfer the individual's entitlement as follows:

“(1) To the individual's spouse.

“(2) To one or more of the individual's children.

“(3) To a combination of the individuals referred to in paragraphs (1) and (2).

“(d) LIMITATION ON MONTHS OF TRANSFER.—The total number of months of entitlement transferred by a individual under this section may not exceed 36 months. The Secretary of Defense may prescribe regulations that would limit the months of entitlement that may be transferred under this section to no less than 18 months.

“(e) DESIGNATION OF TRANSFEREE.—An individual transferring an entitlement to educational assistance under this section shall—

“(1) designate the dependent or dependents to whom such entitlement is being transferred;

“(2) designate the number of months of such entitlement to be transferred to each such dependent; and

“(3) specify the period for which the transfer shall be effective for each dependent designated under paragraph (1).

“(f) TIME FOR TRANSFER; REVOCATION AND MODIFICATION.—

“(1) TIME FOR TRANSFER.—Subject to the time limitation for use of entitlement under section 3321 an individual approved to transfer entitlement to educational assistance under this section may transfer such entitlement only while serving as a member of the armed forces when the transfer is executed.

“(2) MODIFICATION OR REVOCATION.—

“(A) IN GENERAL.—An individual transferring entitlement under this section may modify or revoke at any time the transfer of any unused portion of the entitlement so transferred.

“(B) NOTICE.—The modification or revocation of the transfer of entitlement under this paragraph shall be made by the submittal of written notice of the action to both the Secretary concerned and the Secretary of Veterans Affairs.

“(3) PROHIBITION ON TREATMENT OF TRANSFERRED ENTITLEMENT AS MARITAL PROPERTY.—Entitlement transferred under this section may not be treated as marital property, or the asset of a marital estate, subject to division in a divorce or other civil proceeding.

“(g) COMMENCEMENT OF USE.—A dependent to whom entitlement to educational assistance is transferred under this section may not commence the use of the transferred entitlement until—

“(1) in the case of entitlement transferred to a spouse, the completion by the individual making the transfer of at least—

“(A) six years of service in the armed forces; or

“(B) the years of service as determined in regulations pursuant to subsection (j); or

“(2) in the case of entitlement transferred to a child, both—

“(A) the completion by the individual making the transfer of at least—

“(i) ten years of service in the armed forces; or

“(ii) the years of service as determined in regulations pursuant to subsection (j); and

“(B) either—

“(i) the completion by the child of the requirements of a secondary school diploma (or equivalency certificate); or

“(ii) the attainment by the child of 18 years of age.

“(h) ADDITIONAL ADMINISTRATIVE MATTERS.—

“(1) USE.—The use of any entitlement to educational assistance transferred under this section shall be charged against the entitlement of the individual making the transfer at the rate of one month for each month of transferred entitlement that is used.

“(2) NATURE OF TRANSFERRED ENTITLEMENT.—Except as provided under subsection (e)(2) and subject to paragraphs (5) and (6)—

“(A) in the case of entitlement transferred to a spouse under this section, the spouse is entitled to educational assistance under this chapter in the same manner as the individual from whom the entitlement was transferred; or

“(B) in the case of entitlement transferred to a child under this section, the child is entitled to educational assistance under this chapter in the same manner as the individual from whom the entitlement was transferred as if the individual were not on active duty.

“(3) RATE OF PAYMENT.—The monthly rate of educational assistance payable to a dependent to whom entitlement referred to in paragraph (2) is transferred under this section shall be payable—

“(A) in the case of a spouse, at the same rate as such entitlement would otherwise be payable under this chapter to the individual making the transfer; or

“(B) in the case of a child, at the same rate as such entitlement would otherwise be payable under this chapter to the individual making the transfer as if the individual were not on active duty.

“(4) DEATH OF TRANSFEROR.—The death of an individual transferring an entitlement under this section shall not affect the use of the entitlement by the dependent to whom the entitlement is transferred.

“(5) LIMITATION ON AGE OF USE BY CHILD TRANSFEREES.—A child to whom entitlement is transferred under this section

may use the benefit without regard to the 15-year delimiting date, but may not use any entitlement so transferred after attaining the age of 26 years.

“(6) SCOPE OF USE BY TRANSFEREES.—The purposes for which a dependent to whom entitlement is transferred under this section may use such entitlement shall include the pursuit and completion of the requirements of a secondary school diploma (or equivalency certificate).

Applicability.

“(7) ADDITIONAL ADMINISTRATIVE PROVISIONS.—The administrative provisions of this chapter shall apply to the use of entitlement transferred under this section, except that the dependent to whom the entitlement is transferred shall be treated as the eligible individual for purposes of such provisions.

“(i) OVERPAYMENT.—

“(1) JOINT AND SEVERAL LIABILITY.—In the event of an overpayment of educational assistance with respect to a dependent to whom entitlement is transferred under this section, the dependent and the individual making the transfer shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685.

“(2) FAILURE TO COMPLETE SERVICE AGREEMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), if an individual transferring entitlement under this section fails to complete the service agreed to by the individual under subsection (b)(1) in accordance with the terms of the agreement of the individual under that subsection, the amount of any transferred entitlement under this section that is used by a dependent of the individual as of the date of such failure shall be treated as an overpayment of educational assistance under paragraph (1).

“(B) EXCEPTION.—Subparagraph (A) shall not apply in the case of an individual who fails to complete service agreed to by the individual—

“(i) by reason of the death of the individual; or

“(ii) for a reason referred to in section 3311(c)(4).

“(j) REGULATIONS.—(1) The Secretary of Defense, in coordination with the Secretary of Veterans Affairs, shall prescribe regulations for purposes of this section.

“(2) Such regulations shall specify—

“(A) the manner of authorizing the transfer of entitlements under this section;

“(B) the eligibility criteria in accordance with subsection (b); and

“(C) the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2).

“(k) SECRETARY CONCERNED DEFINED.—Notwithstanding section 101(25), in this section, the term ‘Secretary concerned’ means—

“(1) the Secretary of the Army with respect to matters concerning the Army;

“(2) the Secretary of the Navy with respect to matters concerning the Navy or the Marine Corps;

“(3) the Secretary of the Air Force with respect to matters concerning the Air Force; and

“(4) the Secretary of Defense with respect to matters concerning the Coast Guard, or the Secretary of Homeland Security when it is not operating as a service in the Navy.

“SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

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

“(a) IN GENERAL.—Except as provided in this section, the period during which an individual entitled to educational assistance under this chapter may use such individual’s entitlement expires at the end of the 15-year period beginning on the date of such individual’s last discharge or release from active duty.

“(b) EXCEPTIONS.—

“(1) APPLICABILITY OF SECTION 3031 TO RUNNING OF PERIOD.—Subsections (b), (c), and (d) of section 3031 shall apply with respect to the running of the 15-year period described in subsection (a) of this section in the same manner as such subsections apply under section 3031 with respect to the running of the 10-year period described in section 3031(a).

“(2) APPLICABILITY OF SECTION 3031 TO TERMINATION.—Section 3031(f) shall apply with respect to the termination of an individual’s entitlement to educational assistance under this chapter in the same manner as such section applies to the termination of an individual’s entitlement to educational assistance under chapter 30, except that, in the administration of such section for purposes of this chapter, the reference to section 3013 shall be deemed to be a reference to 3312.

“(3) DETERMINATION OF LAST DISCHARGE OR RELEASE.—For purposes of subsection (a), an individual’s last discharge or release from active duty shall not include any discharge or release from a period of active duty of less than 90 days of continuous service, unless the individual is discharged or released as described in section 3311(b)(2).

“§ 3322. Bar to duplication of educational assistance benefits

“(a) IN GENERAL.—An individual entitled to educational assistance under this chapter who is also eligible for educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980 (Public Law 96-449; 5 U.S.C. 5561 note) may not receive assistance under two or more such programs concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which chapter or provisions to receive educational assistance.

“(b) INAPPLICABILITY OF SERVICE TREATED UNDER EDUCATIONAL LOAN REPAYMENT PROGRAMS.—A period of service counted for purposes of repayment of an education loan under chapter 109 of title 10 may not be counted as a period of service for entitlement to educational assistance under this chapter.

“(c) SERVICE IN SELECTED RESERVE.—An individual who serves in the Selected Reserve may receive credit for such service under only one of this chapter, chapter 30 of this title, and chapters 1606 and 1607 of title 10, and shall elect (in such form and manner as the Secretary may prescribe) under which chapter such service is to be credited.

“(d) ADDITIONAL COORDINATION MATTERS.—In the case of an individual entitled to educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980, or making contributions toward entitlement to educational assistance under

chapter 30 of this title, as of August 1, 2009, coordination of entitlement to educational assistance under this chapter, on the one hand, and such chapters or provisions, on the other, shall be governed by the provisions of section 5003(c) of the Post-9/11 Veterans Educational Assistance Act of 2008.

“§ 3323. Administration

“(a) IN GENERAL.—

Applicability.

“(1) IN GENERAL.—Except as otherwise provided in this chapter, the provisions specified in section 3034(a)(1) shall apply to the provision of educational assistance under this chapter.

“(2) SPECIAL RULE.—In applying the provisions referred to in paragraph (1) to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such provisions to the term ‘eligible veteran’ shall be deemed to refer to an individual entitled to educational assistance under this chapter.

“(3) RULE FOR APPLYING SECTION 3474.—In applying section 3474 to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such section 3474 to the term ‘educational assistance allowance’ shall be deemed to refer to educational assistance payable under section 3313.

“(4) RULE FOR APPLYING SECTION 3482.—In applying section 3482(g) to an individual entitled to educational assistance under this chapter for purposes of this section—

“(A) the first reference to the term ‘educational assistance allowance’ in such section 3482(g) shall be deemed to refer to educational assistance payable under section 3313; and

“(B) the first sentence of paragraph (1) of such section 3482(g) shall be applied as if such sentence ended with ‘equipment’.

“(b) INFORMATION ON BENEFITS.—

Regulations.

“(1) TIMING FOR PROVIDING.—The Secretary shall provide the information described in paragraph (2) to each member of the Armed Forces at such times as the Secretary and the Secretary of Defense shall jointly prescribe in regulations.

“(2) DESCRIPTION OF INFORMATION.—The information described in this paragraph is information on benefits, limitations, procedures, eligibility requirements (including time-in-service requirements), and other important aspects of educational assistance under this chapter, including application forms for such assistance under section 5102.

“(3) TO WHOM PROVIDED.—The Secretary of Veterans Affairs shall furnish the information and forms described in paragraph (2), and other educational materials on educational assistance under this chapter, to educational institutions, training establishments, military education personnel, and such other persons and entities as the Secretary considers appropriate.

“(c) REGULATIONS.—

“(1) IN GENERAL.—The Secretary shall prescribe regulations for the administration of this chapter.

“(2) UNIFORMITY.—Any regulations prescribed by the Secretary of Defense for purposes of this chapter shall apply uniformly across the Armed Forces. Applicability.

“§ 3324. Allocation of administration and costs

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

“(b) COSTS.—Payments for entitlement to educational assistance earned under this chapter shall be made from funds appropriated to, or otherwise made available to, the Department for the payment of readjustment benefits.”.

(2) CLERICAL AMENDMENTS.—The tables of chapters at the beginning of title 38, United States Code, and at the beginning of part III of such title, are each amended by inserting after the item relating to chapter 32 the following new item:

“33. Post-9/11 Educational Assistance3301.”.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS RELATING TO DUPLICATION OF BENEFITS.—

(A) Section 3033 of title 38, United States Code, is amended—

(i) in subsection (a)(1) by inserting “33,” after “32,”; and

(ii) in subsection (c) by striking “both the program established by this chapter and the program established by chapter 106 of title 10” and inserting “two or more of the programs established by this chapter, chapter 33 of this title, and chapters 1606 and 1607 of title 10”.

(B) Paragraph (4) of section 3695(a) of such title is amended to read as follows:

“(4) Chapters 30, 32, 33, 34, 35, and 36.”.

(C) Section 16163(e) of title 10, United States Code, is amended by inserting “33,” after “32,”.

(2) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Title 38, United States Code, is further amended by inserting “33,” after “32,” each place it appears in the following provisions:

(i) In subsections (b) and (e)(1) of section 3485.

(ii) In section 3688(b).

(iii) In subsections (a)(1), (c)(1), (c)(1)(G), (d), and (e)(2) of section 3689.

(iv) In section 3690(b)(3)(A).

(v) In subsections (a) and (b) of section 3692.

(vi) In section 3697(a).

(B) Section 3697A(b)(1) of such title is amended by striking “or 32” and inserting “32, or 33”.

(c) APPLICABILITY TO INDIVIDUALS UNDER MONTGOMERY GI BILL PROGRAM.— 38 USC 3301 note.

(1) INDIVIDUALS ELIGIBLE TO ELECT PARTICIPATION IN POST-9/11 EDUCATIONAL ASSISTANCE.—An individual may elect to receive educational assistance under chapter 33 of title 38, United States Code (as added by subsection (a)), if such individual—

(A) as of August 1, 2009—

(i) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, and has used, but retains unused, entitlement under that chapter;

(ii) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, and has used, but retains unused, entitlement under the applicable chapter;

(iii) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, but has not used any entitlement under that chapter;

(iv) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, but has not used any entitlement under such chapter;

(v) is a member of the Armed Forces who is eligible for receipt of basic educational assistance under chapter 30 of title 38, United States Code, and is making contributions toward such assistance under section 3011(b) or 3012(c) of such title; or

(vi) is a member of the Armed Forces who is not entitled to basic educational assistance under chapter 30 of title 38, United States Code, by reason of an election under section 3011(c)(1) or 3012(d)(1) of such title; and

(B) as of the date of the individual's election under this paragraph, meets the requirements for entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added).

Effective date.

(2) CESSATION OF CONTRIBUTIONS TOWARD GI BILL.—Effective as of the first month beginning on or after the date of an election under paragraph (1) of an individual described by subparagraph (A)(v) of that paragraph, the obligation of the individual to make contributions under section 3011(b) or 3012(c) of title 38, United States Code, as applicable, shall cease, and the requirements of such section shall be deemed to be no longer applicable to the individual.

(3) REVOCATION OF REMAINING TRANSFERRED ENTITLEMENT.—

(A) ELECTION TO REVOKE.—If, on the date an individual described in subparagraph (A)(i) or (A)(iii) of paragraph (1) makes an election under that paragraph, a transfer of the entitlement of the individual to basic educational assistance under section 3020 of title 38, United States Code, is in effect and a number of months of the entitlement so transferred remain unutilized, the individual may elect to revoke all or a portion of the entitlement so transferred that remains unutilized.

(B) AVAILABILITY OF REVOKED ENTITLEMENT.—Any entitlement revoked by an individual under this paragraph shall no longer be available to the dependent to whom transferred, but shall be available to the individual instead for educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of this subsection.

(C) AVAILABILITY OF UNREVOKED ENTITLEMENT.—Any entitlement described in subparagraph (A) that is not

revoked by an individual in accordance with that subparagraph shall remain available to the dependent or dependents concerned in accordance with the current transfer of such entitlement under section 3020 of title 38, United States Code.

(4) POST-9/11 EDUCATIONAL ASSISTANCE.—

(A) IN GENERAL.—Subject to subparagraph (B) and except as provided in paragraph (5), an individual making an election under paragraph (1) shall be entitled to educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of such chapter, instead of basic educational assistance under chapter 30 of title 38, United States Code, or educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, as applicable.

(B) LIMITATION ON ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual making an election under paragraph (1) who is described by subparagraph (A)(i) of that paragraph, the number of months of entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), shall be the number of months equal to—

(i) the number of months of unused entitlement of the individual under chapter 30 of title 38, United States Code, as of the date of the election, plus

(ii) the number of months, if any, of entitlement revoked by the individual under paragraph (3)(A).

(5) CONTINUING ENTITLEMENT TO EDUCATIONAL ASSISTANCE NOT AVAILABLE UNDER 9/11 ASSISTANCE PROGRAM.—

(A) IN GENERAL.—In the event educational assistance to which an individual making an election under paragraph (1) would be entitled under chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable, is not authorized to be available to the individual under the provisions of chapter 33 of title 38, United States Code (as so added), the individual shall remain entitled to such educational assistance in accordance with the provisions of the applicable chapter.

(B) CHARGE FOR USE OF ENTITLEMENT.—The utilization by an individual of entitlement under subparagraph (A) shall be chargeable against the entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), at the rate of one month of entitlement under such chapter 33 for each month of entitlement utilized by the individual under subparagraph (A) (as determined as if such entitlement were utilized under the provisions of chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable).

(6) ADDITIONAL POST-9/11 ASSISTANCE FOR MEMBERS HAVING MADE CONTRIBUTIONS TOWARD GI BILL.—

(A) ADDITIONAL ASSISTANCE.—In the case of an individual making an election under paragraph (1) who is described by clause (i), (iii), or (v) of subparagraph (A) of that paragraph, the amount of educational assistance payable to the individual under chapter 33 of title 38,

United States Code (as so added), as a monthly stipend payable under paragraph (1)(B) of section 3313(c) of such title, or under paragraphs (2) through (7) of that section (as applicable), shall be the amount otherwise payable as a monthly stipend under the applicable paragraph increased by the amount equal to—

(i) the total amount of contributions toward basic educational assistance made by the individual under section 3011(b) or 3012(c) of title 38, United States Code, as of the date of the election, multiplied by

(ii) the fraction—

(I) the numerator of which is—

(aa) the number of months of entitlement to basic educational assistance under chapter 30 of title 38, United States Code, remaining to the individual at the time of the election; plus

(bb) the number of months, if any, of entitlement under such chapter 30 revoked by the individual under paragraph (3)(A); and

(II) the denominator of which is 36 months.

(B) MONTHS OF REMAINING ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual covered by subparagraph (A) who is described by paragraph (1)(A)(v), the number of months of entitlement to basic educational assistance remaining to the individual for purposes of subparagraph (A)(ii)(I)(aa) shall be 36 months.

(C) TIMING OF PAYMENT.—The amount payable with respect to an individual under subparagraph (A) shall be paid to the individual together with the last payment of the monthly stipend payable to the individual under paragraph (1)(B) of section 3313(c) of title 38, United States Code (as so added), or under paragraphs (2) through (7) of that section (as applicable), before the exhaustion of the individual's entitlement to educational assistance under chapter 33 of such title (as so added).

(7) CONTINUING ENTITLEMENT TO ADDITIONAL ASSISTANCE FOR CRITICAL SKILLS OR SPECIALITY AND ADDITIONAL SERVICE.—An individual making an election under paragraph (1)(A) who, at the time of the election, is entitled to increased educational assistance under section 3015(d) of title 38, United States Code, or section 16131(i) of title 10, United States Code, or supplemental educational assistance under subchapter III of chapter 30 of title 38, United States Code, shall remain entitled to such increased educational assistance or supplemental educational assistance in the utilization of entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added), in an amount equal to the quarter, semester, or term, as applicable, equivalent of the monthly amount of such increased educational assistance or supplemental educational assistance payable with respect to the individual at the time of the election.

(8) IRREVOCABILITY OF ELECTIONS.—An election under paragraph (1) or (3)(A) is irrevocable.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on August 1, 2009.

INCREASE IN AMOUNTS OF BASIC EDUCATIONAL ASSISTANCE UNDER
THE MONTGOMERY GI BILL

SEC. 5004. (a) EDUCATIONAL ASSISTANCE BASED ON THREE-YEAR PERIOD OF OBLIGATED SERVICE.—Subsection (a)(1) of section 3015 of title 38, United States Code, is amended—

(1) by striking subparagraphs (A) through (C) and inserting the following new subparagraph:

“(A) for months occurring during the period beginning on August 1, 2008, and ending on the last day of fiscal year 2009, \$1,321; and”; and

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

(b) EDUCATIONAL ASSISTANCE BASED ON TWO-YEAR PERIOD OF OBLIGATED SERVICE.—Subsection (b)(1) of such section is amended—

(1) by striking subparagraphs (A) through (C) and inserting the following new subparagraph:

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

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

(c) MODIFICATION OF MECHANISM FOR COST-OF-LIVING ADJUSTMENTS.—Subsection (h)(1) of such section is amended by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

“(A) the average cost of undergraduate tuition in the United States, as determined by the National Center for Education Statistics, for the last academic year preceding the beginning of the fiscal year for which the increase is made, exceeds

“(B) the average cost of undergraduate tuition in the United States, as so determined, for the academic year preceding the academic year described in subparagraph (A).”

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on August 1, 2008.

(2) NO COST-OF-LIVING ADJUSTMENT FOR FISCAL YEAR 2009.—The adjustment required by subsection (h) of section 3015 of title 38, United States Code (as amended by this section), in rates of basic educational assistance payable under subsections (a) and (b) of such section (as so amended) shall not be made for fiscal year 2009.

38 USC 3015
note.

MODIFICATION OF AMOUNT AVAILABLE FOR REIMBURSEMENT OF
STATE AND LOCAL AGENCIES ADMINISTERING VETERANS EDUCATION
BENEFITS

SEC. 5005. Section 3674(a)(4) of title 38, United States Code, is amended by striking “may not exceed” and all that follows through the end and inserting “shall be \$19,000,000.”

AUTHORITY TO TRANSFER UNUSED EDUCATION BENEFITS TO FAMILY
MEMBERS FOR CAREER SERVICE MEMBERS

SEC. 5006. (a) AUTHORITY TO TRANSFER MONTGOMERY GI BILL BENEFITS TO A DEPENDENT.—Section 3020 of title 38, United States Code, is amended—

(1) by striking the section heading and subsections (a) and (b) and inserting the following:

“§ 3020. Authority to transfer unused education benefits to family members for career service members

“(a) IN GENERAL.—Subject to the provisions of this section, the Secretary of Defense may authorize the Secretary concerned, to promote recruitment and retention of members of the Armed Forces, to permit an individual described in subsection (b) who is entitled to basic educational assistance under this subchapter to elect to transfer to one or more of the dependents specified in subsection (c) the unused portion of entitlement to such assistance, subject to the limitation under subsection (d).

“(b) ELIGIBLE INDIVIDUALS.—An individual referred to in subsection (a) is any member of the Armed Forces—

“(1) who, while serving on active duty or as a member of the Selected Reserve at the time of the approval by the Secretary concerned of the member’s request to transfer entitlement to basic educational assistance under this section, has completed six years of service in the Armed Forces and enters into an agreement to serve at least four more years as a member of the Armed Forces; or

“(2) as determined in regulations pursuant to subsection (k).”;

(2) by striking subsection (d) and inserting the following:

“(d) LIMITATION ON MONTHS OF TRANSFER.—(1) An individual approved to transfer an entitlement to basic educational assistance under this section may transfer any unused entitlement to one or more of the dependents specified in subsection (c).

“(2) The total number of months of entitlement transferred by an individual under this section may not exceed 36 months. The Secretary of Defense may prescribe regulations that would limit the months of entitlement that may be transferred under this section to no less than 18 months.”;

(3) in subsection (f)(1) by striking “without regard to whether” and inserting “only while”; and

(4) in subsection (f)(2) by inserting “as long as the individual is serving on active duty or as a member of the Selected Reserve” after “so transferred”;

(5) by adding at the end of subsection (f) the following:

“(3) Entitlement transferred under this section may not be treated as marital property, or the asset of a marital estate, subject to division in a divorce or other civil proceeding.”;

(6) in subsection (h)(5) by inserting “may use the benefit without regard to the 10-year delimiting date, but” after “under this section”; and

(7) by striking subsection (k) and inserting the following:

“(k) REGULATIONS.—The Secretary of Defense, in coordination with the Secretary of Veterans Affairs, shall prescribe regulations for purposes of this section. Such regulations shall specify—

“(1) the manner of authorizing the military departments to offer transfer of entitlements under this section;

“(2) the eligibility criteria in accordance with subsection (b);

“(3) the limitations on the amount of entitlement eligible to be transferred; and

“(4) the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2).”.

(b) **AUTHORITY TO TRANSFER MONTGOMERY GI BILL FOR THE SELECTED RESERVE BENEFITS TO A DEPENDENT.**—Chapter 1606 of title 10, United States Code, is amended by inserting after section 16132 the following:

“§ 16132a. Authority to transfer unused education benefits to family members

“(a) **IN GENERAL.**—Subject to regulation prescribed by the Secretary of Defense, the Secretary concerned may permit a member described in subsection (b) who is entitled to basic educational assistance under this chapter to elect to transfer to one or more of the dependents specified in subsection (c) a portion of such member’s entitlement to such assistance, subject to the limitation under subsection (d).

Regulations.

“(b) **ELIGIBLE MEMBERS.**—A member referred to in subsection (a) is a member of the Selected Reserve of the Ready Reserve who, at the time of the approval of the member’s request to transfer entitlement to basic educational assistance under this section, has completed—

“(1) at least six years of service in the Selected Reserve and enters into an agreement to service at least four more years as a member of the armed forces; or

“(2) the years of service as determined in regulations pursuant to subsection (j).

“(c) **ELIGIBLE DEPENDENTS.**—A member approved to transfer an entitlement to basic educational assistance under this section may transfer the member’s entitlement as follows:

“(1) To the member’s spouse.

“(2) To one or more of the member’s children.

“(3) To a combination of the individuals referred to in paragraphs (1) and (2).

“(d) **LIMITATION ON MONTHS OF TRANSFER.**—The total number of months of entitlement transferred by a member under this section may not exceed 36 months. The Secretary of Defense may prescribe regulations that would limit the months of entitlement that may be transferred under this section to no less than 18 months.

“(e) **DESIGNATION OF TRANSFEREE.**—A member transferring an entitlement to basic educational assistance under this section shall—

“(1) designate the dependent or dependents to whom such entitlement is being transferred;

“(2) designate the number of months of such entitlement to be transferred to each such dependent; and

“(3) specify the period for which the transfer shall be effective for each dependent designated under paragraph (1).

“(f) **TIME FOR TRANSFER; REVOCATION AND MODIFICATION.**—(1) Subject to the time limitation for use of entitlement under section 16133, a member approved to transfer entitlement to basic

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educational assistance under this section may transfer such entitlement at any time after the approval of the member's request to transfer such entitlement.

"(2) A member transferring entitlement under this section may modify or revoke at any time the transfer of any unused portion of the entitlement so transferred. The modification or revocation of the transfer of entitlement under this paragraph shall be made by the submittal of written notice of the action to both the Secretary concerned and the Secretary of Veterans Affairs.

"(3) Entitlement transferred under this section may not be treated as marital property, or the asset of a marital estate, subject to division in a divorce or other civil proceeding.

"(g) COMMENCEMENT OF USE.—A dependent to whom entitlement to basic educational assistance is transferred under this section may not commence the use of the transferred entitlement until—

"(1) in the case of entitlement transferred to a spouse, the completion by the member making the transfer of at least—

"(A) six years of service in the armed forces; or

"(B) the years of service as determined in regulations pursuant to subsection (j); or

"(2) in the case of entitlement transferred to a child, both—

"(A) the completion by the member making the transfer of at least—

"(i) ten years of service in the armed forces; or

"(ii) the years of service as determined in regulations pursuant to subsection (j); and

"(B) either—

"(i) the completion by the child of the requirements of a secondary school diploma (or equivalency certificate); or

"(ii) the attainment by the child of 18 years of age.

"(h) ADDITIONAL ADMINISTRATIVE MATTERS.—(1) The use of any entitlement to basic educational assistance transferred under this section shall be charged against the entitlement of the member making the transfer at the rate of one month for each month of transferred entitlement that is used.

"(2) Except as provided under subsection (e)(2) and subject to paragraphs (5) and (6), a dependent to whom entitlement is transferred under this section is entitled to basic educational assistance under this chapter in the same manner as the member from whom the entitlement was transferred.

"(3) The monthly rate of educational assistance payable to a dependent to whom entitlement is transferred under this section shall be the monthly amount payable under sections 16131 and 16131a to the member making the transfer.

"(4) The death of a member transferring an entitlement under this section shall not affect the use of the entitlement by the dependent to whom the entitlement is transferred.

"(5) The involuntary separation or retirement of the member—

"(A) because of a nondiscretionary provision of law for age or years of service;

"(B) because of a policy prescribed by the Secretary concerned mandating such separation or retirement based solely on age or years of service for the prescribed pay grade of an enlisted member;

“(C) under section 16133(b); or

“(D) because of medical disqualification which is not the result of gross negligence or misconduct of the member, shall not affect the use of entitlement by the dependent to whom the entitlement is transferred.

“(6) A child to whom entitlement is transferred under this section may not use any entitlement so transferred after attaining the age of 26 years.

“(7) The administrative provisions of this chapter shall apply to the use of entitlement transferred under this section, except that the dependent to whom the entitlement is transferred shall be treated as the eligible member for purposes of such provisions. Applicability.

“(8) The purposes for which a dependent to whom entitlement is transferred under this section may use such entitlement shall include the pursuit and completion of the requirements of a secondary school diploma (or equivalency certificate).

“(i) OVERPAYMENT.—(1) In the event of an overpayment of basic educational assistance with respect to a dependent to whom entitlement is transferred under this section, the dependent and the member making the transfer shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685 of title 38.

“(2) Except as provided in paragraph (3), if a member’s whose eligibility is terminated under section 16134(2), the amount of any transferred entitlement under this section that is used by a dependent of the member as of the date of such termination shall be treated as an overpayment of basic educational assistance under paragraph (1).

“(3) Paragraph (2) shall not apply in the case of a member who fails to complete service agreed to by the member—

“(A) by reason of the death of the member; or

“(B) for a reason referred to in section 16133(b).

“(j) REGULATIONS.—The Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall prescribe regulations for purposes of this section. Such regulations shall specify—

“(1) the manner of authorizing the military departments to offer transfer of entitlements under this section;

“(2) the eligibility criteria in accordance with subsection (b);

“(3) the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2); and

“(4) the manner in which the provisions referred to in subsections (h)(4) and (5) shall be administered with respect to a dependent to whom entitlement is transferred under this section.”.

(c) AUTHORITY TO TRANSFER RESERVE EDUCATIONAL ASSISTANCE PROGRAM BENEFITS TO A DEPENDENT.—Chapter 1607 of such title is amended by inserting after section 16163 the following:

“§ 16163a. Authority to transfer unused education benefits to family members

“(a) IN GENERAL.—Subject to the provisions of this section, the Secretary concerned may permit, at such Secretary’s sole discretion, a member described in subsection (b) who is entitled to basic educational assistance under this chapter to elect to transfer to one or more of the dependents specified in subsection (c) a portion

of such member's entitlement to such assistance, subject to the limitation under subsection (d).

“(b) ELIGIBLE MEMBERS.—A member referred to in subsection (a) is a member of the armed forces who, at the time of the approval of the member's request to transfer entitlement to basic educational assistance under this section, has completed at least—

“(1) six years of service in the armed forces and enters into an agreement to serve at least four more years as a member of the armed forces; or

“(2) the years of service as determined in regulations pursuant to section (j).

“(c) ELIGIBLE DEPENDENTS.—A member approved to transfer an entitlement to basic educational assistance under this section may transfer the member's entitlement as follows:

“(1) To the member's spouse.

“(2) To one or more of the member's children.

“(3) To a combination of the individuals referred to in paragraphs (1) and (2).

“(d) LIMITATION ON MONTHS OF TRANSFER.—The total number of months of entitlement transferred by a member under this section may not exceed 36 months. The Secretary of Defense may prescribe regulations that would limit the months of entitlement that may be transferred under this section to no less than 18 months.

“(e) DESIGNATION OF TRANSFEREE.—A member transferring an entitlement to basic educational assistance under this section shall—

“(1) designate the dependent or dependents to whom such entitlement is being transferred;

“(2) designate the number of months of such entitlement to be transferred to each such dependent; and

“(3) specify the period for which the transfer shall be effective for each dependent designated under paragraph (1).

“(f) TIME FOR TRANSFER; REVOCATION AND MODIFICATION.—(1) Subject to the time limitation for use of entitlement under section 16164, a member approved to transfer entitlement to basic educational assistance under this section may transfer such entitlement only while serving as a member of the armed forces when the transfer is executed.

“(2) A member transferring entitlement under this section may modify or revoke at any time the transfer of any unused portion of the entitlement so transferred. The modification or revocation of the transfer of entitlement under this paragraph shall be made by the submittal of written notice of the action to both the Secretary concerned and the Secretary of Veterans Affairs.

“(3) Entitlement transferred under this section may not be treated as marital property, or the asset of a marital estate, subject to division in a divorce or other civil proceeding.

“(g) COMMENCEMENT OF USE.—A dependent to whom entitlement to basic educational assistance is transferred under this section may not commence the use of the transferred entitlement until—

“(1) in the case of entitlement transferred to a spouse, the completion by the member making the transfer of at least—

“(A) six years of service in the armed forces; or

“(B) the years of service as determined in regulations pursuant to subsection (j); or

“(2) in the case of entitlement transferred to a child, both—

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“(A) the completion by the member making the transfer of at least—

“(i) ten years of service in the armed forces; or

“(ii) the years of service as determined in regulations pursuant to subsection (j); and

“(B) either—

“(i) the completion by the child of the requirements of a secondary school diploma (or equivalency certificate); or

“(ii) the attainment by the child of 18 years of age.

“(h) ADDITIONAL ADMINISTRATIVE MATTERS.—(1) The use of any entitlement to basic educational assistance transferred under this section shall be charged against the entitlement of the member making the transfer at the rate of one month for each month of transferred entitlement that is used.

“(2) Except as provided under subsection (e)(2) and subject to paragraphs (5) and (6), a dependent to whom entitlement is transferred under this section is entitled to basic educational assistance under this chapter in the same manner as the member from whom the entitlement was transferred.

“(3) The monthly rate of educational assistance payable to a dependent to whom entitlement is transferred under this section shall be the monthly amount payable under sections 16162 and 16162a to the member making the transfer.

“(4) The death of a member transferring an entitlement under this section shall not affect the use of the entitlement by the dependent to whom the entitlement is transferred.

“(5) Notwithstanding section 16164(a)(2), a child to whom entitlement is transferred under this section may use the benefit without regard to the 10-year delimiting date, but may not use any entitlement so transferred after attaining the age of 26 years.

“(6) The administrative provisions of this chapter shall apply to the use of entitlement transferred under this section, except that the dependent to whom the entitlement is transferred shall be treated as the eligible member for purposes of such provisions.

“(7) The purposes for which a dependent to whom entitlement is transferred under this section may use such entitlement shall include the pursuit and completion of the requirements of a secondary school diploma (or equivalency certificate).

“(i) OVERPAYMENT.—

“(1) JOINT AND SEVERAL LIABILITY.—In the event of an overpayment of basic educational assistance with respect to a dependent to whom entitlement is transferred under this section, the dependent and the member making the transfer shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685 of title 38.

“(2) FAILURE TO COMPLETE SERVICE AGREEMENT.—Except as provided in paragraph (3), if an individual transferring entitlement under this section fails to complete the service agreed to by the individual under subsection (b)(1) in accordance with the terms of the agreement of the individual under that subsection, the amount of any transferred entitlement under this section that is used by a dependent of the individual as of the date of such failure shall be treated as an overpayment of educational assistance under paragraph (1).

Applicability.

“(3) Paragraph (2) shall not apply in the case of an individual who fails to complete service agreed to by the individual—

“(A) by reason of the death of the individual; or

“(B) for a reason referred to in section 16133(b).

“(j) REGULATIONS.—(1) The Secretary of Defense, in coordination with the Secretary of Veterans Affairs, shall prescribe regulations for purposes of this section.

“(2) Such regulations shall specify—

“(A) the manner of authorizing the transfer of entitlements under this section;

“(B) the eligibility criteria in accordance with subsection (b); and

“(C) the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2).

“(k) SECRETARY CONCERNED DEFINED.—For purposes of this section, the term ‘Secretary concerned’ has the meaning given in section 101(a)(9) in the case of a member of the armed forces.”.

(d) CONFORMING AMENDMENTS.—Section 16133(a) of title 10, United States Code, is amended by striking “(1)” and all that follows through the period at the end of the subsection and inserting “on the date the person is separated from the Selected Reserve.”.

(e) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 30 of title 38, United States Code, is amended by striking the item relating to section 3020 and inserting the following new item:

“3020. Authority to transfer unused education benefits to family members of career service members.”.

(2) The table of sections at the beginning of chapter 1606 of title 10, United States Code, is amended by inserting after the item relating to section 16132 the following new item:

“16132a. Authority to transfer unused education benefits to family members.”.

(3) The table of sections at the beginning of chapter 1607 of such title is amended by inserting after the item relating to section 16163 the following new item:

“16163a. Authority to transfer unused education benefits to family members.”.

TITLE VI—ACCOUNTABILITY AND TRANSPARENCY IN GOVERNMENT CONTRACTING

CHAPTER 1—CLOSE THE CONTRACTOR FRAUD LOOPHOLE

SHORT TITLE

Close the
Contractor Fraud
Loophole Act.

41 USC 251 note.

SEC. 6101. This chapter may be cited as the “Close the Contractor Fraud Loophole Act”.

REVISION OF THE FEDERAL ACQUISITION REGULATION

Deadline.
41 USC 251 note.

SEC. 6102. The Federal Acquisition Regulation shall be amended within 180 days after the date of the enactment of this Act pursuant to FAR Case 2007-006 (as published at 72 Fed Reg. 64019, November 14, 2007) or any follow-on FAR case to include provisions that require timely notification by Federal contractors of violations of Federal criminal law or overpayments in connection with the award or performance of covered contracts or subcontracts, including those performed outside the United States and those for commercial items.

DEFINITION

SEC. 6103. In this chapter, the term “covered contract” means any contract in an amount greater than \$5,000,000 and more than 120 days in duration. 41 USC 251 note.

CHAPTER 2—GOVERNMENT FUNDING TRANSPARENCY

Government
Funding
Transparency Act
of 2008.

SHORT TITLE

SEC. 6201. This chapter may be cited as the “Government Funding Transparency Act of 2008”. 31 USC 6101 note.

FINANCIAL DISCLOSURE REQUIREMENTS FOR CERTAIN RECIPIENTS OF
FEDERAL AWARDS

SEC. 6202. (a) DISCLOSURE REQUIREMENTS.—Section 2(b)(1) of the Federal Funding Accountability and Transparency Act (Public Law 109–282; 31 U.S.C. 6101 note) is amended—

- (1) by striking “and” at the end of subparagraph (E);
- (2) by redesignating subparagraph (F) as subparagraph (G); and
- (3) by inserting after subparagraph (E) the following new subparagraph:

“(F) the names and total compensation of the five most highly compensated officers of the entity if—

“(i) the entity in the preceding fiscal year received—

“(I) 80 percent or more of its annual gross revenues in Federal awards; and

“(II) \$25,000,000 or more in annual gross revenues from Federal awards; and

“(ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.”.

(b) REGULATIONS REQUIRED.—The Director of the Office of Management and Budget shall promulgate regulations to implement the amendment made by this chapter. Such regulations shall include a definition of “total compensation” that is consistent with regulations of the Securities and Exchange Commission at section 402 of part 229 of title 17 of the Code of Federal Regulations (or any subsequent regulation). 31 USC 6101 note.

TITLE VII—MEDICAID PROVISIONS

SEC. 7001. (a) MORATORIA ON CERTAIN MEDICAID REGULATIONS.—

(1) EXTENSION OF CERTAIN MORATORIA IN PUBLIC LAW 110–28.—Section 7002(a)(1) of the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28) is amended—

(A) by striking “prior to the date that is 1 year after the date of enactment of this Act” and inserting “prior to April 1, 2009”;

121 Stat. 187.

(B) in subparagraph (A), by inserting after “Federal Regulations)” the following: “or in the final regulation, relating to such parts, published on May 29, 2007 (72 Federal Register 29748) and determined by the United States District Court for the District of Columbia to have been ‘improperly promulgated’, *Alameda County Medical Center, et al., v. Leavitt, et al.*, Civil Action No. 08-0422, Mem. at 4 (D.D.C. May 23, 2008)”]; and

(C) in subparagraph (C), by inserting before the period at the end the following: “, including the proposed regulation published on May 23, 2007 (72 Federal Register 28930)”.

(2) EXTENSION OF CERTAIN MORATORIA IN PUBLIC LAW 110–173.—Section 206 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173) is amended—

121 Stat. 2514.

(A) by striking “June 30, 2008” and inserting “April 1, 2009”;

(B) by inserting “, including the proposed regulation published on August 13, 2007 (72 Federal Register 45201),” after “rehabilitation services”; and

(C) by inserting “, including the final regulation published on December 28, 2007 (72 Federal Register 73635),” after “school-based transportation”.

(3) ADDITIONAL MORATORIA.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall not, prior to April 1, 2009, take any action (through promulgation of regulation, issuance of regulatory guidance, use of Federal payment audit procedures, or other administrative action, policy, or practice, including a Medical Assistance Manual transmittal or letter to State Medicaid directors) to impose any restrictions relating to a provision described in subparagraph (B) or (C) if such restrictions are more restrictive in any aspect than those applied to the respective provision as of the date specified in subparagraph (D) for such provision.

(B) PORTION OF INTERIM FINAL REGULATION RELATING TO MEDICAID TREATMENT OF OPTIONAL CASE MANAGEMENT SERVICES.—

(i) IN GENERAL.—Subject to clause (ii), the provision described in this subparagraph is the interim final regulation relating to optional State plan case management services under the Medicaid program published on December 4, 2007 (72 Federal Register 68077) in its entirety.

(ii) EXCEPTION.—The provision described in this subparagraph does not include the portion of such regulation as relates directly to implementing section 1915(g)(2)(A)(ii) of the Social Security Act, as amended by section 6052 of the Deficit Reduction Act of 2005 (Public Law 109–171), through the definition of case management services and targeted case management services contained in proposed section 440.169 of title 42, Code of Federal Regulations, but only to the extent that such portion is not more restrictive than the policies set forth in the Dear State Medicaid Director letter on case management issued on January 19, 2001

(SMDL #01-013), and with respect to community transition case management, the Dear State Medicaid Director letter issued on July 25, 2000 (Olmstead Update 3).

(C) PORTION OF PROPOSED REGULATION RELATING TO MEDICAID ALLOWABLE PROVIDER TAXES.—

(i) IN GENERAL.—Subject to clause (ii), the provision described in this subparagraph is the final regulation relating to health-care-related taxes under the Medicaid program published on February 22, 2008 (73 Federal Register 9685) in its entirety.

(ii) EXCEPTION.—The provision described in this subparagraph does not include the portions of such regulation as relate to the following:

(I) REDUCTION IN THRESHOLD.—The reduction from 6 percent to 5.5 percent in the threshold applied under section 433.68(f)(3)(i) of title 42, Code of Federal Regulations, for determining whether or not there is an indirect guarantee to hold a taxpayer harmless, as required to carry out section 1903(w)(4)(C)(ii) of the Social Security Act, as added by section 403 of the Medicare Improvement and Extension Act of 2006 (division B of Public Law 109-432).

(II) CHANGE IN DEFINITION OF MANAGED CARE.—The change in the definition of managed care as proposed in the revision of section 433.56(a)(8) of title 42, Code of Federal Regulations, as required to carry out section 1903(w)(7)(A)(viii) of the Social Security Act, as amended by section 6051 of the Deficit Reduction Act of 2005 (Public Law 109-171).

(D) DATE SPECIFIED.—The date specified in this subparagraph for the provision described in—

(i) subparagraph (B) is December 3, 2007; or

(ii) subparagraph (C) is February 21, 2008.

(b) FUNDS TO REDUCE MEDICAID FRAUD AND ABUSE.—

(1) IN GENERAL.—For purposes of reducing fraud and abuse in the Medicaid program under title XIX of the Social Security Act—

(A) there is appropriated to the Office of the Inspector General of the Department of Health and Human Services, out of any money in the Treasury not otherwise appropriated, \$25,000,000, for fiscal year 2009; and

(B) there is authorized to be appropriated to such Office \$25,000,000 for fiscal year 2010 and each subsequent fiscal year.

Amounts appropriated under this section shall remain available for expenditure until expended and shall be in addition to any other amounts appropriated or made available to such Office for such purposes with respect to the Medicaid program.

(2) ANNUAL REPORT.—Not later than September 30 of 2009 and of each subsequent year, the Inspector General of the Department of Health and Human Services shall submit to the Committees on Energy and Commerce and Appropriations of the House of Representatives and the Committees on Finance and Appropriations of the Senate a report on the activities

42 USC
1320a-7g.

(and the results of such activities) funded under paragraph (1) to reduce waste, fraud, and abuse in the Medicaid program under title XIX of the Social Security Act during the previous 12 month period, including the amount of funds appropriated under such paragraph for each such activity and an estimate of the savings to the Medicaid program resulting from each such activity.

(c) STUDY AND REPORTS TO CONGRESS.—

(1) SECRETARIAL REPORT IDENTIFYING PROBLEMS.—Not later than January 1, 2009, the Secretary of Health and Human Services shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report that—

(A) outlines the specific problems the Medicaid regulations referred to in the amendments made by paragraphs (1) and (2) of subsection (a) were intended to address;

(B) details how these regulations were designed to address these specific problems; and

(C) cites the legal authority for such regulations.

(2) INDEPENDENT COMPREHENSIVE STUDY AND REPORT.—

(A) IN GENERAL.—Not later than January 1, 2009, the Secretary of Health and Human Services shall enter into a contract with an independent organization for the purpose of—

(i) producing a comprehensive report on the prevalence of the problems outlined in the report submitted under paragraph (1);

(ii) identifying strategies in existence to address these problems; and

(iii) assessing the impact of each regulation referred to in such paragraph on each State and the District of Columbia.

(B) ADDITIONAL MATTER.—The report under subparagraph (A) shall also include—

(i) an identification of which claims for items and services (including administrative activities) under title XIX of the Social Security Act are not processed through systems described in section 1903(r) of such Act;

(ii) an examination of the reasons why these claims for such items and services are not processed through such systems; and

(iii) recommendations on actions by the Federal government and the States that can make claims for such items and services more accurate and complete consistent with such title.

(C) DEADLINE.—The report under subparagraph (A) shall be submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate not later than September 1, 2009.

(D) COOPERATION OF STATES.—If the Secretary of Health and Human Services determines that a State or the District of Columbia has not cooperated with the independent organization for purposes of the report under this paragraph, the Secretary shall reduce the amount paid to the State or District under section 1903(a) of the Social

Contracts.

Security Act (42 U.S.C. 1396b(a)) by \$25,000 for each day on which the Secretary determines such State or District has not so cooperated. Such reduction shall be made through a process that permits the State or District to challenge the Secretary's determination.

(3) FUNDING.—

(A) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary without further appropriation, \$5,000,000 to carry out this subsection.

(B) AVAILABILITY; AMOUNTS IN ADDITION TO OTHER AMOUNTS APPROPRIATED FOR SUCH ACTIVITIES.—Amounts appropriated pursuant to subparagraph (A) shall—

(i) remain available until expended; and

(ii) be in addition to any other amounts appropriated or made available to the Secretary of Health and Human Services with respect to the Medicaid program.

(d) ASSET VERIFICATION THROUGH ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS.—

(1) ADDITION OF AUTHORITY.—Title XIX of the Social Security Act is amended by inserting after section 1939 the following new section:

“ASSET VERIFICATION THROUGH ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS

“SEC. 1940. (a) IMPLEMENTATION.—

42 USC 1396w.

“(1) IN GENERAL.—Subject to the provisions of this section, each State shall implement an asset verification program described in subsection (b), for purposes of determining or redetermining the eligibility of an individual for medical assistance under the State plan under this title.

“(2) PLAN SUBMITTAL.—In order to meet the requirement of paragraph (1), each State shall—

Deadlines.

“(A) submit not later than a deadline specified by the Secretary consistent with paragraph (3), a State plan amendment under this title that describes how the State intends to implement the asset verification program; and

“(B) provide for implementation of such program for eligibility determinations and redeterminations made on or after 6 months after the deadline established for submittal of such plan amendment.

“(3) PHASE-IN.—

“(A) IN GENERAL.—

“(i) IMPLEMENTATION IN CURRENT ASSET VERIFICATION DEMO STATES.—The Secretary shall require those States specified in subparagraph (C) (to which an asset verification program has been applied before the date of the enactment of this section) to implement an asset verification program under this subsection by the end of fiscal year 2009.

“(ii) IMPLEMENTATION IN OTHER STATES.—The Secretary shall require other States to submit and implement an asset verification program under this subsection in such manner as is designed to result in the application of such programs, in the aggregate

for all such other States, to enrollment of approximately, but not less than, the following percentage of enrollees, in the aggregate for all such other States, by the end of the fiscal year involved:

“(I) 12.5 percent by the end of fiscal year 2009.

“(II) 25 percent by the end of fiscal year 2010.

“(III) 50 percent by the end of fiscal year 2011.

“(IV) 75 percent by the end of fiscal year 2012.

“(V) 100 percent by the end of fiscal year 2013.

Consultation.

“(B) CONSIDERATION.—In selecting States under subparagraph (A)(ii), the Secretary shall consult with the States involved and take into account the feasibility of implementing asset verification programs in each such State.

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

“(D) CONSTRUCTION.—Nothing in subparagraph (A)(ii) shall be construed as preventing a State from requesting, and the Secretary from approving, the implementation of an asset verification program in advance of the deadline otherwise established under such subparagraph.

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

“(b) ASSET VERIFICATION PROGRAM.—

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

“(A) requires each applicant for, or recipient of, medical assistance under the State plan under this title on the basis of being aged, blind, or disabled to provide authorization by such applicant or recipient (and any other person whose resources are required by law to be disclosed to determine the eligibility of the applicant or recipient for such assistance) for the State to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act but at no cost to the applicant or recipient) from any financial institution (within the meaning of section 1101(1) of such Act) any financial record (within the meaning of section 1101(2) of such Act) held by the institution with respect to the applicant or recipient (and such other person, as applicable), whenever the State determines the record is needed in connection with a determination with respect to such eligibility for (or the amount or extent of) such medical assistance; and

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

“(2) PROGRAM DESCRIBED.—A program described in this paragraph is a program for verifying individual assets in a manner consistent with the approach used by the Commissioner of Social Security under section 1631(e)(1)(B)(ii).

“(c) DURATION OF AUTHORIZATION.—Notwithstanding section 1104(a)(1) of the Right to Financial Privacy Act, an authorization

provided to a State under subsection (b)(1) shall remain effective until the earliest of—

“(1) the rendering of a final adverse decision on the applicant’s application for medical assistance under the State’s plan under this title;

“(2) the cessation of the recipient’s eligibility for such medical assistance; or

“(3) the express revocation by the applicant or recipient (or such other person described in subsection (b)(1), as applicable) of the authorization, in a written notification to the State.

Notification.

“(d) TREATMENT OF RIGHT TO FINANCIAL PRIVACY ACT REQUIREMENTS.—

“(1) An authorization obtained by the State under subsection (b)(1) shall be considered to meet the requirements of the Right to Financial Privacy Act for purposes of section 1103(a) of such Act, and need not be furnished to the financial institution, notwithstanding section 1104(a) of such Act.

“(2) The certification requirements of section 1103(b) of the Right to Financial Privacy Act shall not apply to requests by the State pursuant to an authorization provided under subsection (b)(1).

“(3) A request by the State pursuant to an authorization provided under subsection (b)(1) is deemed to meet the requirements of section 1104(a)(3) of the Right to Financial Privacy Act and of section 1102 of such Act, relating to a reasonable description of financial records.

“(e) REQUIRED DISCLOSURE.—The State shall inform any person who provides authorization pursuant to subsection (b)(1)(A) of the duration and scope of the authorization.

“(f) REFUSAL OR REVOCATION OF AUTHORIZATION.—If an applicant for, or recipient of, medical assistance under the State plan under this title (or such other person described in subsection (b)(1), as applicable) refuses to provide, or revokes, any authorization made by the applicant or recipient (or such other person, as applicable) under subsection (b)(1)(A) for the State to obtain from any financial institution any financial record, the State may, on that basis, determine that the applicant or recipient is ineligible for medical assistance.

“(g) USE OF CONTRACTOR.—For purposes of implementing an asset verification program under this section, a State may select and enter into a contract with a public or private entity meeting such criteria and qualifications as the State determines appropriate, consistent with requirements in regulations relating to general contracting provisions and with section 1903(i)(2). In carrying out activities under such contract, such an entity shall be subject to the same requirements and limitations on use and disclosure of information as would apply if the State were to carry out such activities directly.

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

“(i) REPORTS.—A State implementing an asset verification program under this section shall furnish to the Secretary such reports concerning the program, at such times, in such format, and containing such information as the Secretary determines appropriate.

“(j) TREATMENT OF PROGRAM EXPENSES.—Notwithstanding any other provision of law, reasonable expenses of States in carrying out the program under this section shall be treated, for purposes of section 1903(a), in the same manner as State expenditures specified in paragraph (7) of such section.”.

(2) STATE PLAN REQUIREMENTS.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (69) by striking “and” at the end;

(B) in paragraph (70) by striking the period at the end and inserting “; and”; and

(C) by inserting after paragraph (70), as so amended, the following new paragraph:

“(71) provide that the State will implement an asset verification program as required under section 1940.”.

(3) WITHHOLDING OF FEDERAL MATCHING PAYMENTS FOR NONCOMPLIANT STATES.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(A) in paragraph (22) by striking “or” at the end;

(B) in paragraph (23) by striking the period at the end and inserting “; or”; and

(C) by adding after paragraph (23) the following new paragraph:

Deadlines.

“(24) if a State is required to implement an asset verification program under section 1940 and fails to implement such program in accordance with such section, with respect to amounts expended by such State for medical assistance for individuals subject to asset verification under such section, unless—

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

Action plan.

“(B) not later than 60 days after the date of a finding that the State is in noncompliance, the State submits to the Secretary (and the Secretary approves) a corrective action plan to remedy such noncompliance; and

“(C) not later than 12 months after the date of such submission (and approval), the State fulfills the terms of such corrective action plan.”.

42 USC 1396a
note.

(4) REPEAL.—Section 4 of Public Law 110-90 is repealed.

SEC. 7002. (a) MEDICARE IMPROVEMENT FUND.— Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by adding at the end the following new section:

“MEDICARE IMPROVEMENT FUND

42 USC 1395iii.

“SEC. 1898. (a) ESTABLISHMENT.—The Secretary shall establish under this title a Medicare Improvement Fund (in this section referred to as the ‘Fund’) which shall be available to the Secretary to make improvements under the original fee-for-service program under parts A and B for individuals entitled to, or enrolled for, benefits under part A or enrolled under part B.

“(b) FUNDING.—

“(1) IN GENERAL.—There shall be available to the Fund, for expenditures from the Fund for services furnished during fiscal year 2014, \$2,220,000,000.

“(2) PAYMENT FROM TRUST FUNDS.—The amount specified under paragraph (1) shall be available to the Fund, as expenditures are made from the Fund, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical

Insurance Trust Fund in such proportion as the Secretary determines appropriate.

“(3) FUNDING LIMITATION.—Amounts in the Fund shall be available in advance of appropriations but only if the total amount obligated from the Fund does not exceed the amount available to the Fund under paragraph (1). The Secretary may obligate funds from the Fund only if the Secretary determines (and the Chief Actuary of the Centers for Medicare & Medicaid Services and the appropriate budget officer certify) that there are available in the Fund sufficient amounts to cover all such obligations incurred consistent with the previous sentence.”.

(b) MEDICAID IMPROVEMENT FUND.— Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), as amended by section 7001(d), is further amended by adding at the end the following new section:

“MEDICAID IMPROVEMENT FUND

“SEC. 1941. (a) ESTABLISHMENT.—The Secretary shall establish under this title a Medicaid Improvement Fund (in this section referred to as the ‘Fund’) which shall be available to the Secretary to improve the management of the Medicaid program by the Centers for Medicare & Medicaid Services, including oversight of contracts and contractors and evaluation of demonstration projects. Payments made for activities under this subsection shall be in addition to payments that would otherwise be made for such activities. 42 USC 1396w–1.

“(b) FUNDING.—

“(1) IN GENERAL.—There shall be available to the Fund, for expenditures from the Fund—

“(A) for fiscal year 2014, \$100,000,000; and

“(B) for fiscal years 2015 through 2018, \$150,000,000.

“(2) FUNDING LIMITATION.—Amounts in the Fund shall be available in advance of appropriations but only if the total amount obligated from the Fund does not exceed the amount available to the Fund under paragraph (1). The Secretary may obligate funds from the Fund only if the Secretary determines (and the Chief Actuary of the Centers for Medicare & Medicaid Services and the appropriate budget officer certify) that there are available in the Fund sufficient amounts to cover all such obligations incurred consistent with the previous sentence.”. Certification.

(c) ADJUSTMENT TO PAQI FUND.—Section 1848(l)(2) of the Social Security Act (42 U.S.C. 1395w-4(l)(2)), as amended by section 101(a)(2) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173), is amended—

(1) in subparagraph (A)(i)—

(A) in subclause (III), by striking “\$4,960,000,000” and inserting “\$4,670,000,000”; and

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

“(IV) For expenditures during 2014, an amount equal to \$290,000,000.”;

(2) in subparagraph (A)(ii), by adding at the end the following new subclause:

“(IV) 2014.—The amount available for expenditures during 2014 shall only be available for an adjustment to the update of the conversion factor under subsection (d) for that year.”; and

(3) in subparagraph (B)—

(A) in clause (ii), by striking “and” at the end;

(B) in clause (iii), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new clause:
“(iv) 2014 for payment with respect to physicians’ services furnished during 2014.”.

TITLE VIII—GENERAL PROVISIONS, THIS ACT

AVAILABILITY OF FUNDS

SEC. 8001. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

EMERGENCY DESIGNATION

SEC. 8002. Each amount in each title of this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301(b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009.

REDUCTION IN DEFENSE AMOUNTS

SEC. 8003. Notwithstanding any other provision of this Act, the total amount appropriated in chapter 1 of title IX of this Act under the headings “Procurement”, “Research, Development, Test and Evaluation”, and “Defense Working Capital Funds” is hereby reduced by \$3,577,845,000. Such reduction shall be applied proportionally to each appropriation account under such headings, and to each program, project, and activity within each such appropriation account.

JOINT BASING INITIATIVES

SEC. 8004. Section 9310 of this Act is amended by inserting “, except funds deposited in the Department of Defense Base Closure Account 2005,” after “None of the funds available to the Department of Defense”.

DEFENSE HEALTH PROGRAM

SEC. 8005. Amounts provided for “Defense Health Program” in Public Law 110-28 for Post Traumatic Stress Disorder and Traumatic Brain Injury (TBI) within operation and maintenance which remain available for obligation shall be made available for psychological health and traumatic brain injury.

SHORT TITLE

SEC. 8006. This Act may be cited as the “Supplemental Appropriations Act, 2008”.

TITLE IX

DEFENSE MATTERS

CHAPTER 1

DEFENSE SUPPLEMENTAL APPROPRIATIONS FOR FISCAL
YEAR 2008

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for “Military Personnel, Army”,
\$12,216,715,000.

MILITARY PERSONNEL, NAVY

For an additional amount for “Military Personnel, Navy”,
\$894,185,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for “Military Personnel, Marine
Corps”, \$1,826,688,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for “Military Personnel, Air Force”,
\$1,355,544,000.

RESERVE PERSONNEL, ARMY

For an additional amount for “Reserve Personnel, Army”,
\$304,200,000.

RESERVE PERSONNEL, NAVY

For an additional amount for “Reserve Personnel, Navy”,
\$72,800,000.

RESERVE PERSONNEL, MARINE CORPS

For an additional amount for “Reserve Personnel, Marine
Corps”, \$16,720,000.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for “Reserve Personnel, Air Force”,
\$5,000,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for “National Guard Personnel,
Army”, \$1,369,747,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for “National Guard Personnel, Air Force”, \$4,000,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for “Operation and Maintenance, Army”, \$17,223,512,000.

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Operation and Maintenance, Navy”, \$2,977,864,000: *Provided*, That up to \$112,607,000 shall be transferred to the Coast Guard “Operating Expenses” account.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for “Operation and Maintenance, Marine Corps”, \$159,900,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for “Operation and Maintenance, Air Force”, \$5,972,520,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for “Operation and Maintenance, Defense-Wide”, \$3,657,562,000, of which—

(1) not to exceed \$25,000,000 may be used for the Combatant Commander Initiative Fund, to be used in support of Operation Iraqi Freedom and Operation Enduring Freedom;

(2) not to exceed \$800,000,000, to remain available until expended, may be used for payments to reimburse key cooperating nations, for logistical, military, and other support provided to United States military operations, notwithstanding any other provision of law: *Provided*, That these funds may be used for the purpose of providing specialized training and procuring supplies and specialized equipment and providing such supplies and loaning such equipment on a non-reimbursable basis to coalition forces supporting United States military operations in Iraq and Afghanistan: *Provided further*, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph: *Provided further*, That of the amount

Deadline.
Notification.

Reports.
Deadlines.

available under this heading for the Defense Contract Management Agency, \$52,000,000 shall remain available until September 30, 2009.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for “Operation and Maintenance, Army Reserve”, \$164,839,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for “Operation and Maintenance, Navy Reserve”, \$109,876,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for “Operation and Maintenance, Marine Corps Reserve”, \$70,256,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for “Operation and Maintenance, Air Force Reserve”, \$165,994,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for “Operation and Maintenance, Army National Guard”, \$685,644,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for “Operation and Maintenance, Air National Guard”, \$287,369,000.

IRAQ FREEDOM FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Iraq Freedom Fund”, \$50,000,000, to remain available for transfer until September 30, 2009, notwithstanding any other provision of law, only for the redevelopment of the Iraqi industrial sector by identifying, and providing assistance to, factories and other industrial facilities that are best situated to resume operations quickly and reemploy the Iraqi workforce: *Provided*, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer.

Deadline.
Notification.

AFGHANISTAN SECURITY FORCES FUND

For an additional amount for the “Afghanistan Security Forces Fund”, \$1,400,000,000, to remain available until September 30, 2009.

IRAQ SECURITY FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the “Iraq Security Forces Fund”, \$1,500,000,000, to remain available until September 30, 2009: *Provided*, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Multi-National Security Transition Command—Iraq, or the Secretary’s designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Iraq, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: *Provided further*, That none of the assistance provided under this heading in the form of funds may be utilized for the provision of salaries, wages, or bonuses to personnel of the Iraqi Security Forces: *Provided further*, That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That the Secretary of Defense may transfer such funds to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purposes provided herein: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: *Provided further*, That the Secretary shall notify the congressional defense committees in writing upon the receipt and upon the transfer of any contribution delineating the sources and amounts of the funds received and the specific use of such contributions: *Provided further*, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

Notification.

Deadline.
Notification.

Reports.
Deadline.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for “Aircraft Procurement, Army”, \$954,111,000, to remain available for obligation until September 30, 2010.

MISSILE PROCUREMENT, ARMY

For an additional amount for “Missile Procurement, Army”, \$561,656,000, to remain available for obligation until September 30, 2010.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES,
ARMY

For an additional amount for “Procurement of Weapons and Tracked Combat Vehicles, Army”, \$5,463,471,000, to remain available for obligation until September 30, 2010.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for “Procurement of Ammunition, Army”, \$344,900,000, to remain available for obligation until September 30, 2010.

OTHER PROCUREMENT, ARMY

For an additional amount for “Other Procurement, Army”, \$16,337,340,000, to remain available for obligation until September 30, 2010.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for “Aircraft Procurement, Navy”, \$3,563,254,000, to remain available for obligation until September 30, 2010.

WEAPONS PROCUREMENT, NAVY

For an additional amount for “Weapons Procurement, Navy”, \$317,456,000, to remain available for obligation until September 30, 2010.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for “Procurement of Ammunition, Navy and Marine Corps”, \$304,945,000, to remain available for obligation until September 30, 2010.

OTHER PROCUREMENT, NAVY

For an additional amount for “Other Procurement, Navy”, \$1,399,135,000, to remain available for obligation until September 30, 2010.

PROCUREMENT, MARINE CORPS

For an additional amount for “Procurement, Marine Corps”, \$2,197,390,000, to remain available for obligation until September 30, 2010.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for “Aircraft Procurement, Air Force”, \$7,103,923,000, to remain available for obligation until September 30, 2010.

MISSILE PROCUREMENT, AIR FORCE

For an additional amount for “Missile Procurement, Air Force”, \$66,943,000, to remain available for obligation until September 30, 2010.

PROCUREMENT OF AMMUNITION, AIR FORCE

For an additional amount for “Procurement of Ammunition, Air Force”, \$205,455,000, to remain available for obligation until September 30, 2010.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for “Other Procurement, Air Force”, \$1,953,167,000, to remain available for obligation until September 30, 2010.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for “Procurement, Defense-Wide”, \$408,209,000, to remain available for obligation until September 30, 2010.

NATIONAL GUARD AND RESERVE EQUIPMENT

Deadline.
Assessment.
Expenditure
plan.

For an additional amount for “National Guard and Reserve Equipment”, \$825,000,000, to remain available for obligation until September 30, 2010: *Provided*, That the Chiefs of the National Guard and Reserve components shall, prior to the expenditure of funds, and not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees an equipment modernization priority assessment with a detailed plan for the expenditure of funds for their respective National Guard and Reserve components.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for “Research, Development, Test and Evaluation, Army”, \$162,958,000, to remain available until September 30, 2009.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for “Research, Development, Test and Evaluation, Navy”, \$366,110,000, to remain available until September 30, 2009.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for “Research, Development, Test and Evaluation, Air Force”, \$399,817,000, to remain available until September 30, 2009.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for “Research, Development, Test and Evaluation, Defense-Wide”, \$816,598,000, to remain available until September 30, 2009.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For an additional amount for “Defense Working Capital Funds”, \$1,837,450,000, to remain available for obligation until expended.

NATIONAL DEFENSE SEALIFT FUND

For an additional amount for “National Defense Sealift Fund”, \$5,110,000, to remain available for obligation until expended.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for “Defense Health Program”, \$1,413,864,000, of which \$957,064,000 shall be for operation and maintenance; of which \$91,900,000 is for procurement, to remain available until September 30, 2010; of which \$364,900,000 shall be for research, development, test and evaluation, to remain available until September 30, 2009: *Provided*, That in addition to amounts otherwise contained in this paragraph, \$75,000,000 is hereby appropriated to the “Defense Health Program” for operation and maintenance for psychological health and traumatic brain injury, to remain available until September 30, 2009.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Drug Interdiction and Counter-Drug Activities, Defense”, \$65,317,000, to remain available until September 30, 2009.

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for “Office of the Inspector General”, \$6,394,000, of which \$2,000,000 shall be for research, development, test and evaluation, to remain available until September 30, 2009.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 9101. Appropriations provided in this chapter are available for obligation until September 30, 2008, unless otherwise provided in this chapter.

SEC. 9102. Notwithstanding any other provision of law, funds made available in this chapter are in addition to amounts appropriated or otherwise made available for the Department of Defense for fiscal year 2008.

(INCLUDING TRANSFER OF FUNDS)

SEC. 9103. Upon the determination of the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer between appropriations up to \$2,500,000,000 of the funds made available to the Department of Defense in this chapter: *Provided*, That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section:

Notification.

Provided further, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of Public Law 110-116, except for the fourth proviso.

SEC. 9104. (a) From funds made available for operation and maintenance in this chapter to the Department of Defense, not to exceed \$1,226,841,000 may be used, notwithstanding any other provision of law, to fund the Commander's Emergency Response Program, for the purpose of enabling military commanders in Iraq, Afghanistan, and the Philippines to respond to urgent humanitarian relief and reconstruction requirements within their areas of responsibility by carrying out programs that will immediately assist the Iraqi, Afghan, and Filipino people.

Deadlines.
Reports.

(b) Not later than 15 days after the end of each fiscal year quarter, the Secretary of Defense shall submit to the congressional defense committees a report regarding the source of funds and the allocation and use of funds during that quarter that were made available pursuant to the authority provided in this section or under any other provision of law for the purposes of the programs under subsection (a).

(INCLUDING TRANSFER OF FUNDS)

SEC. 9105. During fiscal year 2008, the Secretary of Defense may transfer not to exceed \$6,500,000 of the amounts in or credited to the Defense Cooperation Account, pursuant to 10 U.S.C. 2608, to such appropriations or funds of the Department of Defense as the Secretary shall determine for use consistent with the purposes for which such funds were contributed and accepted: *Provided*, That such amounts shall be available for the same time period as the appropriation to which transferred: *Provided further*, That the Secretary shall report to the Congress all transfers made pursuant to this authority.

Reports.

SEC. 9106. Of the amount appropriated by this chapter under the heading "Drug Interdiction and Counter-Drug Activities, Defense", not to exceed \$20,000,000 may be used for the provision of support for counter-drug activities of the Governments of Afghanistan, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, and Turkmenistan, as specified in section 1033 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85, as amended by Public Laws 106-398, 108-136, 109-364, and 110-181): *Provided*, That such support shall be in addition to support provided under any other provision of the law.

SEC. 9107. Amounts provided in this chapter for operations in Iraq and Afghanistan may be used by the Department of Defense for the purchase of up to 20 heavy and light armored vehicles for force protection purposes, notwithstanding price or other limitations specified elsewhere in the Department of Defense Appropriations Act, 2008 (Public Law 110-116), or any other provision of law: *Provided*, That notwithstanding any other provision of law, funds provided in Public Law 110-116 and Public Law 110-161 under the heading "Other Procurement, Navy" may be used for the purchase of 21 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$255,000 per vehicle: *Provided further*, That the Secretary of Defense shall submit a report in writing no later than 30 days after the end of each fiscal quarter notifying

Reports.
Deadlines.

the congressional defense committees of any purchase described in this section, including cost, purposes, and quantities of vehicles purchased.

(INCLUDING TRANSFER OF FUNDS)

SEC. 9108. Section 8122(c) of Public Law 110–116 is amended by adding at the end the following:

“(4) Upon a determination that all or part of the funds transferred under paragraph (1) are not necessary to accomplish the purposes specified in subsection (b), such amounts may be transferred back to the ‘Mine Resistant Ambush Protected Vehicle Fund’.”.

SEC. 9109. Notwithstanding any other provision of law, not to exceed \$150,000,000 of funds made available in this chapter may be obligated to conduct or support a program to build the capacity of a foreign country’s national military forces in order for that country to conduct counterterrorist operations or participate in or support military and stability operations in which the U.S. Armed Forces are a participant: *Provided*, That funds available pursuant to the authority in this section shall be subject to the same restrictions, limitations, and reporting requirements as funds available pursuant to section 1206 of Public Law 109–163 as amended.

CHAPTER 2

DEFENSE BRIDGE FUND APPROPRIATIONS FOR FISCAL
YEAR 2009

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for “Military Personnel, Army”, \$839,000,000.

MILITARY PERSONNEL, NAVY

For an additional amount for “Military Personnel, Navy”, \$75,000,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for “Military Personnel, Marine Corps”, \$55,000,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for “Military Personnel, Air Force”, \$75,000,000.

NATIONAL GUARD PERSONNEL, ARMY

For an additional amount for “National Guard Personnel, Army”, \$150,000,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for “Operation and Maintenance, Army”, \$37,300,000,000.

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Operation and Maintenance, Navy”, \$3,500,000,000: *Provided*, That up to \$112,000,000 shall be transferred to the Coast Guard “Operating Expenses” account.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for “Operation and Maintenance, Marine Corps”, \$2,900,000,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for “Operation and Maintenance, Air Force”, \$5,000,000,000.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for “Operation and Maintenance, Defense-Wide”, \$2,648,569,000, of which not to exceed \$200,000,000, to remain available until expended, may be used for payments to reimburse key cooperating nations, for logistical, military, and other support provided to United States military operations, notwithstanding any other provision of law: *Provided*, That these funds may be used for the purpose of providing specialized training and procuring supplies and specialized equipment and providing such supplies and loaning such equipment on a non-reimbursable basis to coalition forces supporting United States military operations in Iraq and Afghanistan: *Provided further*, That such payments may be made in such amounts as the Secretary of Defense, with the concurrence of the Secretary of State, and in consultation with the Director of the Office of Management and Budget, may determine, in his discretion, based on documentation determined by the Secretary of Defense to adequately account for the support provided, and such determination is final and conclusive upon the accounting officers of the United States, and 15 days following notification to the appropriate congressional committees: *Provided further*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees on the use of funds provided in this paragraph.

Deadline.
Notification.

Reports.
Deadlines.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for “Operation and Maintenance, Army Reserve”, \$79,291,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for “Operation and Maintenance, Navy Reserve”, \$42,490,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for “Operation and Maintenance, Marine Corps Reserve”, \$47,076,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for “Operation and Maintenance, Air Force Reserve”, \$12,376,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for “Operation and Maintenance, Army National Guard”, \$333,540,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for “Operation and Maintenance, Air National Guard”, \$52,667,000.

AFGHANISTAN SECURITY FORCES FUND

For an additional amount for the “Afghanistan Security Forces Fund”, \$2,000,000,000, to remain available until September 30, 2009.

IRAQ SECURITY FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For the “Iraq Security Forces Fund”, \$1,000,000,000, to remain available until September 30, 2009: *Provided*, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Commander, Multi-National Security Transition Command—Iraq, or the Secretary’s designee, to provide assistance, with the concurrence of the Secretary of State, to the security forces of Iraq, including the provision of equipment, supplies, services, training, facility and infrastructure repair, renovation, and construction, and funding: *Provided further*, That none of the assistance provided under this heading in the form of funds may be utilized for the provision of salaries, wages, or bonuses to personnel of the Iraqi Security Forces: *Provided further*, That the authority to provide assistance under this heading is in addition to any other authority to provide assistance to foreign nations: *Provided further*, That the Secretary of Defense may transfer such funds to appropriations for military personnel; operation and maintenance; Overseas Humanitarian, Disaster, and Civic Aid; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purposes provided herein: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That contributions of funds for the purposes provided herein from any person, foreign government, or international organization may be credited to this Fund, and used for such purposes: *Provided further*, That the Secretary shall notify the

Notification.

Deadline.
Notification.

Reports.
Deadlines.

congressional defense committees in writing upon the receipt and upon the transfer of any contribution delineating the sources and amounts of the funds received and the specific use of such contributions: *Provided further*, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation account, notify the congressional defense committees in writing of the details of any such transfer: *Provided further*, That the Secretary shall submit a report no later than 30 days after the end of each fiscal quarter to the congressional defense committees summarizing the details of the transfer of funds from this appropriation.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for “Aircraft Procurement, Army”, \$84,000,000, to remain available for obligation until September 30, 2011.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for “Procurement of Weapons and Tracked Combat Vehicles, Army”, \$822,674,000, to remain available for obligation until September 30, 2011.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for “Procurement of Ammunition, Army”, \$46,500,000, to remain available for obligation until September 30, 2011.

OTHER PROCUREMENT, ARMY

For an additional amount for “Other Procurement, Army”, \$1,009,050,000, to remain available for obligation until September 30, 2011.

OTHER PROCUREMENT, NAVY

For an additional amount for “Other Procurement, Navy”, \$27,948,000, to remain available for obligation until September 30, 2011.

PROCUREMENT, MARINE CORPS

For an additional amount for “Procurement, Marine Corps”, \$565,425,000, to remain available for obligation until September 30, 2011.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for “Aircraft Procurement, Air Force”, \$201,842,000, to remain available for obligation until September 30, 2011.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for “Other Procurement, Air Force”, \$1,500,644,000, to remain available for obligation until September 30, 2011.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for “Procurement, Defense-Wide”, \$177,237,000, to remain available for obligation until September 30, 2011.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for “Research, Development, Test and Evaluation, Navy”, \$113,228,000, to remain available until September 30, 2010.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for “Research, Development, Test and Evaluation, Air Force”, \$72,041,000, to remain available until September 30, 2010.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for “Research, Development, Test and Evaluation, Defense-Wide”, \$202,559,000, to remain available until September 30, 2010.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for “Defense Health Program”, \$1,100,000,000 for operation and maintenance.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Drug Interdiction and Counter-Drug Activities, Defense”, \$188,000,000.

JOINT IMPROVISED EXPLOSIVE DEVICE DEFEAT FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Joint Improvised Explosive Device Defeat Fund”, \$2,000,000,000, to remain available until September 30, 2011: *Provided*, That such funds shall be available to the Secretary of Defense, notwithstanding any other provision of law, for the purpose of allowing the Director of the Joint Improvised Explosive Device Defeat Organization to investigate, develop and provide equipment, supplies, services, training, facilities, personnel and funds to assist United States forces in the defeat of improvised explosive devices: *Provided further*, That within 60 days

Deadline.
Plans.

of the enactment of this Act, a plan for the intended management and use of the amounts provided under this heading shall be submitted to the congressional defense committees: *Provided further*, That the Secretary of Defense shall submit a report not later than 60 days after the end of each fiscal quarter to the congressional defense committees providing assessments of the evolving threats, individual service requirements to counter the threats, the current strategy for predeployment training of members of the Armed Forces on improvised explosive devices, and details on the execution of the Fund: *Provided further*, That the Secretary of Defense may transfer funds provided herein to appropriations for operation and maintenance; procurement; research, development, test and evaluation; and defense working capital funds to accomplish the purpose provided herein: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the Secretary of Defense shall, not fewer than 15 days prior to making transfers from this appropriation, notify the congressional defense committees in writing of the details of any such transfer.

Reports.
Deadlines.

Deadline.
Notification.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 9201. Appropriations provided in this chapter are not available for obligation until October 1, 2008.

SEC. 9202. Appropriations provided in this chapter are available for obligation until September 30, 2009, unless otherwise provided in this chapter.

(INCLUDING TRANSFER OF FUNDS)

SEC. 9203. Upon the determination of the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer between appropriations up to \$4,000,000,000 of the funds made available to the Department of Defense in this chapter: *Provided*, That the Secretary shall notify the Congress promptly of each transfer made pursuant to the authority in this section: *Provided further*, That the authority provided in this section is in addition to any other transfer authority available to the Department of Defense and is subject to the same terms and conditions as the authority provided in section 8005 of Public Law 110-116, except for the fourth proviso.

Notification.

Deadlines.
Reports.

SEC. 9204. (a) Not later than December 5, 2008 and every 90 days thereafter through the end of fiscal year 2009, the Secretary of Defense shall set forth in a report to Congress a comprehensive set of performance indicators and measures for progress toward military and political stability in Iraq.

(b) The report shall include performance standards and goals for security, economic, and security force training objectives in Iraq together with a notional timetable for achieving these goals.

(c) In specific, the report requires, at a minimum, the following:

(1) With respect to stability and security in Iraq, the following:

(A) Key measures of political stability, including the important political milestones that must be achieved over the next several years.

(B) The primary indicators of a stable security environment in Iraq, such as number of engagements per day, numbers of trained Iraqi forces, trends relating to numbers

and types of ethnic and religious-based hostile encounters, and progress made in the transition of responsibility for the security of Iraqi provinces to the Iraqi Security Forces under the Provincial Iraqi Control (PIC) process.

(C) An assessment of the estimated strength of the insurgency in Iraq and the extent to which it is composed of non-Iraqi fighters.

(D) A description of all militias operating in Iraq, including the number, size, equipment strength, military effectiveness, sources of support, legal status, and efforts to disarm or reintegrate each militia.

(E) Key indicators of economic activity that should be considered the most important for determining the prospects of stability in Iraq, including—

- (i) unemployment levels;
- (ii) electricity, water, and oil production rates; and
- (iii) hunger and poverty levels.

(F) The most recent annual budget for the Government of Iraq, including a description of amounts budgeted for support of Iraqi security and police forces and an assessment of how planned funding will impact the training, equipping and overall readiness of those forces.

(G) The criteria the Administration will use to determine when it is safe to begin withdrawing United States forces from Iraq.

(2) With respect to the training and performance of security forces in Iraq, the following:

(A) The training provided Iraqi military and other Ministry of Defense forces and the equipment used by such forces.

(B) Key criteria for assessing the capabilities and readiness of the Iraqi military and other Ministry of Defense forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping these forces), and the milestones and notional timetable for achieving these goals.

(C) The operational readiness status of the Iraqi military forces, including the type, number, size, and organizational structure of Iraq battalions that are—

- (i) capable of conducting counterinsurgency operations independently without any support from Coalition Forces;
- (ii) capable of conducting counterinsurgency operations with the support of United States or coalition forces; or
- (iii) not ready to conduct counterinsurgency operations.

(D) The amount and type of support provided by Coalition Forces to the Iraqi Security Forces at each level of operational readiness.

(E) The number of Iraqi battalions in the Iraqi Army currently conducting operations and the type of operations being conducted.

(F) The rates of absenteeism in the Iraqi military forces and the extent to which insurgents have infiltrated such forces.

(G) The training provided Iraqi police and other Ministry of Interior forces and the equipment used by such forces.

(H) The level and effectiveness of the Iraqi Security Forces under the Ministry of Defense in provinces where the United States has formally transferred responsibility for the security of the province to the Iraqi Security Forces under the Provincial Iraqi Control (PIC) process.

(I) Key criteria for assessing the capabilities and readiness of the Iraqi police and other Ministry of Interior forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping), and the milestones and notional timetable for achieving these goals, including—

(i) the number of police recruits that have received classroom training and the duration of such instruction;

(ii) the number of veteran police officers who have received classroom instruction and the duration of such instruction;

(iii) the number of police candidates screened by the Iraqi Police Screening Service, the number of candidates derived from other entry procedures, and the success rates of those groups of candidates;

(iv) the number of Iraqi police forces who have received field training by international police trainers and the duration of such instruction;

(v) attrition rates and measures of absenteeism and infiltration by insurgents; and

(vi) the level and effectiveness of the Iraqi Police and other Ministry of Interior Forces in provinces where the United States has formally transferred responsibility for the security of the province to the Iraqi Security Forces under the Provincial Iraqi Control (PIC) process.

(J) The estimated total number of Iraqi battalions needed for the Iraqi security forces to perform duties now being undertaken by coalition forces, including defending the borders of Iraq and providing adequate levels of law and order throughout Iraq.

(K) The effectiveness of the Iraqi military and police officer cadres and the chain of command.

(L) The number of United States and coalition advisors needed to support the Iraqi security forces and associated ministries.

(M) An assessment, in a classified annex if necessary, of United States military requirements, including planned force rotations, through the end of calendar year 2009.

SEC. 9205. (a) REPORT BY SECRETARY OF DEFENSE.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report that contains individual transition readiness assessments by unit of Iraq and Afghan security forces. The Secretary of Defense shall submit to the congressional defense committees updates of the report required by this subsection every 90 days after the date of the submission of the report until October

1, 2009. The report and updates of the report required by this subsection shall be submitted in classified form.

Classified
information.

(b) REPORT BY OMB.—

(1) The Director of the Office of Management and Budget, in consultation with the Secretary of Defense; the Commander, Multi-National Security Transition Command—Iraq; and the Commander, Combined Security Transition Command—Afghanistan, shall submit to the congressional defense committees not later than 120 days after the date of the enactment of this Act and every 90 days thereafter a report on the proposed use of all funds under each of the headings “Iraq Security Forces Fund” and “Afghanistan Security Forces Fund” on a project-by-project basis, for which the obligation of funds is anticipated during the 3-month period from such date, including estimates by the commanders referred to in this paragraph of the costs required to complete each such project.

(2) The report required by this subsection shall include the following:

(A) The use of all funds on a project-by-project basis for which funds appropriated under the headings referred to in paragraph (1) were obligated prior to the submission of the report, including estimates by the commanders referred to in paragraph (1) of the costs to complete each project.

(B) The use of all funds on a project-by-project basis for which funds were appropriated under the headings referred to in paragraph (1) in prior appropriations Acts, or for which funds were made available by transfer, reprogramming, or allocation from other headings in prior appropriations Acts, including estimates by the commanders referred to in paragraph (1) of the costs to complete each project.

(C) An estimated total cost to train and equip the Iraq and Afghan security forces, disaggregated by major program and sub-elements by force, arrayed by fiscal year.

(c) NOTIFICATION.—The Secretary of Defense shall notify the congressional defense committees of any proposed new projects or transfers of funds between sub-activity groups in excess of \$15,000,000 using funds appropriated by this Act under the headings “Iraq Security Forces Fund” and “Afghanistan Security Forces Fund”.

SEC. 9206. Funds available to the Department of Defense for operation and maintenance provided in this chapter may be used, notwithstanding any other provision of law, to provide supplies, services, transportation, including airlift and sealift, and other logistical support to coalition forces supporting military and stability operations in Iraq and Afghanistan: *Provided*, That the Secretary of Defense shall provide quarterly reports to the congressional defense committees regarding support provided under this section.

Reports.
Deadlines.

SEC. 9207. Supervision and administration costs associated with a construction project funded with appropriations available for operation and maintenance, “Afghanistan Security Forces Fund” or “Iraq Security Forces Fund” provided in this chapter, and executed in direct support of the Global War on Terrorism only in Iraq and Afghanistan, may be obligated at the time a construction contract is awarded: *Provided*, That for the purpose of this section,

supervision and administration costs include all in-house Government costs.

(INCLUDING TRANSFER OF FUNDS)

SEC. 9208. (a) Notwithstanding any other provision of law, and in addition to amounts otherwise made available by this Act, there is appropriated \$1,700,000,000 for the “Mine Resistant Ambush Protected Vehicle Fund”, to remain available until September 30, 2009.

(b) The funds provided by subsection (a) shall be available to the Secretary of Defense to continue technological research and development and upgrades, to procure Mine Resistant Ambush Protected vehicles and associated support equipment, and to sustain, transport, and field Mine Resistant Ambush Protected vehicles.

(c)(1) The Secretary of Defense shall transfer funds provided by subsection (a) to appropriations for operation and maintenance; procurement; and research, development, test and evaluation to accomplish the purposes specified in subsection (b). Such transferred funds shall be merged with and be available for the same purposes and for the same time period as the appropriation to which they are transferred.

(2) The transfer authority provided by this subsection shall be in addition to any other transfer authority available to the Department of Defense.

(3) The Secretary of Defense shall, not less than 15 days prior to making any transfer under this subsection, notify the congressional defense committees in writing of the details of the transfer.

SEC. 9209. For the purposes of this Act, the term “congressional defense committees” means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

Deadline.
Notification.

CHAPTER 3

GENERAL PROVISIONS—THIS TITLE

SEC. 9301. Each amount in this title is designated as an emergency requirement and necessary to meet emergency needs pursuant to subsections (a) and (b) of section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

SEC. 9302. Funds appropriated by this title, or made available by the transfer of funds in this title, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 9303. None of the funds made available in this Act may be used in contravention of the following laws enacted or regulations promulgated to implement the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984):

(1) Section 2340A of title 18, United States Code;

(2) Section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105-277; 112 Stat. 2681-822; 8 U.S.C. 1231 note) and regulations prescribed

thereto, including regulations under part 208 of title 8, Code of Federal Regulations, and part 95 of title 22, Code of Federal Regulations; and

(3) Sections 1002 and 1003 of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109–148).

SEC. 9304. (a) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security, in coordination with the Chairman of the Joint Chiefs of Staff and the Director of National Intelligence, shall jointly submit to Congress a report setting forth the global strategy of the United States to combat and defeat al Qaeda and its affiliates.

(b) ELEMENTS OF STRATEGY.—The strategy set forth in the report required under subsection (a) shall include the following elements:

(1) An analysis of the global threat posed by al Qaeda and its affiliates, including an assessment of the relative threat posed in particular regions or countries.

(2) Recommendations regarding the distribution and deployment of United States military, intelligence, diplomatic, and other assets to meet the relative regional and country-specific threats described in paragraph (1).

(3) Recommendations to ensure that the global deployment of United States military personnel and equipment best meet the threat identified and described in paragraph (1) and:

(A) does not undermine the military readiness or homeland security of the United States;

(B) ensures adequate time between military deployments for rest and training; and

(C) does not require further extensions of military deployments to the extent practicable.

(c) CLASSIFIED ANNEX.—The report required by subsection (a) shall be submitted in unclassified form, but shall include a classified annex.

SEC. 9305. None of the funds provided in this title may be used to finance programs or activities denied by Congress in fiscal years 2007 or 2008 appropriations to the Department of Defense or to initiate a procurement or research, development, test and evaluation new start program without prior written notification to the congressional defense committees.

Notification.

SEC. 9306. Section 1002(c)(2) of the National Defense Authorization Act, Fiscal Year 2008 (Public Law 110–181) is amended by striking “\$362,159,000” and inserting “\$435,259,000”.

Ante, p. 300.

SEC. 9307. None of the funds appropriated or otherwise made available by this title may be obligated or expended to provide award fees to any defense contractor contrary to the provisions of section 814 of the National Defense Authorization Act, Fiscal Year 2007 (Public Law 109–364).

(RESCISSIONS)

SEC. 9308. (a) Of the funds made available for “Defense Health Program” in Public Law 110–28, \$75,000,000 are rescinded.

(b) Of the funds made available for “Joint Improvised Explosive Device Defeat Fund” in division L of the Consolidated Appropriations Act, 2008 (Public Law 110–161), \$71,531,000 are rescinded.

Certification.

SEC. 9309. Of the funds appropriated in the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28) which remain available for obligation under the “Iraq Freedom Fund”, \$150,000,000 is only for the Joint Rapid Acquisition Cell, and \$10,000,000 is only for the transportation of fallen service members.

SEC. 9310. None of the funds available to the Department of Defense may be obligated or expended to implement any final action on joint basing initiatives required under the 2005 round of defense base closure and realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) until each affected Secretary of a military department or the head of each affected Federal agency certifies to the congressional defense committees that joint basing at the affected military installation will result in significant costs savings and will not negatively impact the morale of members of the Armed Forces.

SEC. 9311. Funds available in this title which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment unit cost of not more than \$250,000: *Provided*, That upon determination by the Secretary of Defense that such action is necessary to meet the operational requirements of a Commander of a Combatant Command engaged in contingency operations overseas, such funds may be used to purchase items having an investment item unit cost of not more than \$500,000.

Approved June 30, 2008.

LEGISLATIVE HISTORY—H.R. 2642 (S. 1645) (S. 2363):

HOUSE REPORTS: No. 110–186 (Comm. on Appropriations).

SENATE REPORTS: No. 110–185 accompanying S. 1645 (Comm. on Appropriations).

CONGRESSIONAL RECORD:

Vol. 153 (2007): June 15, considered and passed House.

Sept. 4–6, considered and passed Senate, amended.

Vol. 154 (2008): May 15, House concurred in Senate amendment with amendments.

May 20, 22, Senate considered and concurred in House amendments with amendments.

June 19, House concurred in certain Senate amendment and in another with an amendment.

June 26, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 44 (2008):

June 30, Presidential remarks.