

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—110th Cong., 2d Sess.**

**H.R. 2642**

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.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

Intended to be proposed by Mr. \_\_\_\_\_ to the  
amendment of the House amendment Numbered 1 to  
the amendment of the Senate to the bill H.R. 2642

Viz: In lieu of the language proposed to be inserted, insert  
the following:

1 TITLE I  
2 OTHER SECURITY, MILITARY CONSTRUCTION,  
3 AND INTERNATIONAL MATTERS  
4 CHAPTER 1  
5 DEPARTMENT OF AGRICULTURE  
6 FOREIGN AGRICULTURAL SERVICE  
7 PUBLIC LAW 480 TITLE II GRANTS

8 For an additional amount for “Public Law 480 Title  
9 II Grants”, \$850,000,000, to remain available until ex-  
10 pended.

11 For an additional amount for “Public Law 480 Title  
12 II Grants”, \$395,000,000, to become available on October  
13 1, 2008, and to remain available until expended.

14 CHAPTER 2  
15 DEPARTMENT OF JUSTICE  
16 GENERAL ADMINISTRATION  
17 OFFICE OF INSPECTOR GENERAL

18 For an additional amount for the Office of the In-  
19 spector General, \$4,000,000, to remain available until  
20 September 30, 2009.

21 LEGAL ACTIVITIES  
22 SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES  
23 For an additional amount for “Salaries and Ex-  
24 penses, General Legal Activities”, \$1,648,000, to remain  
25 available until September 30, 2009.

## 1 SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

2 For an additional amount for “Salaries and Ex-  
3 penses, United States Attorneys”, \$5,000,000, to remain  
4 available until September 30, 2009.

## 5 UNITED STATES MARSHALS SERVICE

## 6 SALARIES AND EXPENSES

7 For an additional amount for “Salaries and Ex-  
8 penses”, \$18,621,000, to remain available until September  
9 30, 2009.

## 10 FEDERAL BUREAU OF INVESTIGATION

## 11 SALARIES AND EXPENSES

12 For an additional amount for “Salaries and Ex-  
13 penses”, \$164,965,000, to remain available until Sep-  
14 tember 30, 2009.

15 For an additional amount for “Salaries and Ex-  
16 penses”, \$82,600,000 to become available on October 1,  
17 2008 and to remain available until September 30, 2009.

## 18 DRUG ENFORCEMENT ADMINISTRATION

## 19 SALARIES AND EXPENSES

20 For an additional amount for “Salaries and Ex-  
21 penses”, \$22,666,000, to remain available until September  
22 30, 2009.

1 BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND  
2 EXPLOSIVES  
3 SALARIES AND EXPENSES

4 For an additional amount for “Salaries and Ex-  
5 penses”, \$4,000,000, to remain available until September  
6 30, 2009.

7 FEDERAL PRISON SYSTEM  
8 SALARIES AND EXPENSES

9 For an additional amount for “Salaries and Ex-  
10 penses”, \$9,100,000, to remain available until September  
11 30, 2009.

12 CHAPTER 3  
13 MILITARY CONSTRUCTION  
14 MILITARY CONSTRUCTION, ARMY

15 For an additional amount for “Military Construction,  
16 Army”, \$1,170,200,000: *Provided*, That such funds may  
17 be obligated and expended to carry out planning and de-  
18 sign and military construction projects not otherwise au-  
19 thorized by law: *Provided further*, That of the funds made  
20 available under this heading, \$1,033,000,000 shall remain  
21 available until September 30, 2009, and \$137,200,000  
22 shall remain available until September 30, 2012: *Provided*  
23 *further*, That funds made available under this heading for  
24 military construction projects in Iraq shall not be obli-  
25 gated or expended until the Secretary of Defense certifies

1 to the Committees on Appropriations of both Houses of  
2 Congress that none of the funds are to be used for the  
3 purpose of providing facilities for the permanent basing  
4 of U.S. military personnel in Iraq.

5       MILITARY CONSTRUCTION, NAVY AND MARINE CORPS

6       For an additional amount for “Military Construction,  
7 Navy and Marine Corps”, \$300,084,000: *Provided*, That  
8 such funds may be obligated and expended to carry out  
9 planning and design and military construction projects not  
10 otherwise authorized by law: *Provided further*, That of the  
11 funds made available under this heading, \$270,785,000  
12 shall remain available until September 30, 2009, and  
13 \$29,299,000 shall remain available until September 30,  
14 2012.

15               MILITARY CONSTRUCTION, AIR FORCE

16       For an additional amount for “Military Construction,  
17 Air Force”, \$361,900,000: *Provided*, That such funds may  
18 be obligated and expended to carry out planning and de-  
19 sign and military construction projects not otherwise au-  
20 thorized by law: *Provided further*, That of the funds made  
21 available under this heading, \$324,300,000 shall remain  
22 available until September 30, 2009, and \$37,600,000 shall  
23 remain available until September 30, 2012: *Provided fur-*  
24 *ther*, That funds made available under this heading for  
25 military construction projects in Iraq shall not be obli-



1 (10 U.S.C. 2687 note), \$1,202,886,000, to remain avail-  
2 able until expended.

3 DEPARTMENT OF VETERANS AFFAIRS

4 DEPARTMENTAL ADMINISTRATION

5 GENERAL OPERATING EXPENSES

6 For an additional amount for “General Operating  
7 Expenses”, \$100,000,000, to remain available until ex-  
8 pended.

9 INFORMATION TECHNOLOGY SYSTEMS

10 For an additional amount for “Information Tech-  
11 nology Systems”, \$20,000,000, to remain available until  
12 expended.

13 CONSTRUCTION, MAJOR PROJECTS

14 For an additional amount for “Construction, Major  
15 Projects”, \$437,100,000, to remain available until ex-  
16 pended, which shall be for acceleration and completion of  
17 planned major construction of Level I polytrauma rehabili-  
18 tation centers as identified in the Department of Veterans  
19 Affairs’ Five Year Capital Plan: *Provided*, That notwith-  
20 standing any other provision of law, such funds may be  
21 obligated and expended to carry out planning and design  
22 and major medical facility construction not otherwise au-  
23 thorized by law: *Provided further*, That within 30 days of  
24 enactment of this Act the Secretary shall submit to the  
25 Committees on Appropriations of both Houses of Congress

1 an expenditure plan for funds provided under this head-  
2 ing.

3 GENERAL PROVISIONS—THIS CHAPTER

4 SEC. 1301. In addition to amounts otherwise appro-  
5 priated or made available under the heading “Military  
6 Construction, Army”, there is hereby appropriated an ad-  
7 ditional \$70,600,000, to remain available until September  
8 30, 2012, for the acceleration and completion of child de-  
9 velopment center construction as proposed in the fiscal  
10 year 2009 budget request for the Department of the  
11 Army: *Provided*, That such funds may be obligated and  
12 expended to carry out planning and design and military  
13 construction not otherwise authorized by law.

14 SEC. 1302. In addition to amounts otherwise appro-  
15 priated or made available under the heading “Military  
16 Construction, Navy and Marine Corps”, there is hereby  
17 appropriated an additional \$89,820,000, to remain avail-  
18 able until September 30, 2012, for the acceleration and  
19 completion of child development and youth center con-  
20 struction as proposed in the fiscal year 2009 budget re-  
21 quest for the Department of the Navy: *Provided*, That  
22 such funds may be obligated and expended to carry out  
23 planning and design and military construction not other-  
24 wise authorized by law.

1        SEC. 1303. In addition to amounts otherwise appro-  
2        priated or made available under the heading “Military  
3        Construction, Air Force”, there is hereby appropriated an  
4        additional \$8,100,000, to remain available until Sep-  
5        tember 30, 2012, for the acceleration and completion of  
6        child development center construction as proposed in the  
7        fiscal year 2009 budget request for the Department of the  
8        Air Force: *Provided*, That such funds may be obligated  
9        and expended to carry out planning and design and mili-  
10       tary construction not otherwise authorized by law.

11       SEC. 1304. In addition to amounts otherwise appro-  
12       priated or made available under the heading “Military  
13       Construction, Army”, there is hereby appropriated an ad-  
14       ditional \$200,000,000, to remain available until Sep-  
15       tember 30, 2012, to accelerate barracks improvements at  
16       Department of the Army installations: *Provided*, That  
17       such funds may be obligated and expended to carry out  
18       planning and design and barracks construction not other-  
19       wise authorized by law: *Provided further*, That within 30  
20       days of enactment of this Act the Secretary shall submit  
21       to the Committees on Appropriations of both Houses of  
22       Congress an expenditure plan for barracks construction  
23       prior to obligation.

24       SEC. 1305. COLLECTION OF CERTAIN INDEBTED-  
25       NESS OF MEMBERS OF THE ARMED FORCES AND VET-

1 VETERANS WHO DIE OF INJURY INCURRED OR AGGRAVATED  
2 IN SERVICE IN THE LINE OF DUTY IN A COMBAT ZONE.

3 (a) LIMITATION ON AUTHORITY.—

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

7 **“§ 5302A. Collection of indebtedness: certain debts of**  
8 **members of the Armed Forces and vet-**  
9 **erans who die of injury incurred or ag-**  
10 **gravated in the line of duty in a combat**  
11 **zone**

12 “(a) LIMITATION ON AUTHORITY.—The Secretary  
13 may not collect all or any part of an amount owed to the  
14 United States by a member of the Armed Forces or vet-  
15 eran described in subsection (b) under any program under  
16 the laws administered by the Secretary, other than a pro-  
17 gram referred to in subsection (c), if the Secretary deter-  
18 mines that termination of collection is in the best interest  
19 of the United States.

20 “(b) COVERED INDIVIDUALS.—A member of the  
21 Armed Forces or veteran described in this subsection is  
22 any member or veteran who dies as a result of an injury  
23 incurred or aggravated in the line of duty while serving  
24 in a theater of combat operations (as determined by the  
25 Secretary in consultation with the Secretary of Defense)

1 in a war or in combat against a hostile force during a  
2 period of hostilities (as that term is defined in section  
3 1712A(a)(2)(B) of this title) after September 11, 2001.

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

9 (2) CLERICAL AMENDMENT.—The table of sec-  
10 tions at the beginning of chapter 53 of such title is  
11 amended by inserting after the item relating to sec-  
12 tion 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.”.

13 (b) EQUITABLE REFUND.—In any case where all or  
14 any part of an indebtedness of a covered individual, as  
15 described in section 5302A(a) of title 38, United States  
16 Code, as added by subsection (a)(1), was collected after  
17 September 11, 2001, and before the date of the enactment  
18 of this Act, and the Secretary of Veterans Affairs deter-  
19 mines that such indebtedness would have been terminated  
20 had such section been in effect at such time, the Secretary  
21 may refund the amount so collected if the Secretary deter-  
22 mines that the individual is equitably entitled to such re-  
23 fund.



1 \$5,000,000 shall be made available to establish a United  
2 States Consulate in Lhasa, Tibet: *Provided further*, That  
3 the Department of State shall not consent to the opening  
4 of a consular post in the United States by the People's  
5 Republic of China until such time as a United States Con-  
6 sulate in Lhasa, Tibet is established.

7 OFFICE OF INSPECTOR GENERAL

8 (INCLUDING TRANSFER OF FUNDS)

9 For an additional amount for "Office of Inspector  
10 General", \$12,500,000, to remain available until Sep-  
11 tember 30, 2009: *Provided*, That \$2,500,000 shall be  
12 transferred to the Special Inspector General for Iraq Re-  
13 construction for reconstruction oversight, and up to  
14 \$5,000,000 may be transferred to the Special Inspector  
15 General for Afghanistan Reconstruction for reconstruction  
16 oversight.

17 EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

18 For an additional amount for "Educational and Cul-  
19 tural Exchange Programs", \$10,000,000, to remain avail-  
20 able until September 30, 2009, of which \$5,000,000 shall  
21 be for programs and activities in Africa, and \$5,000,000  
22 shall be for programs and activities in the Western Hemi-  
23 sphere.

1 EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

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

5 INTERNATIONAL ORGANIZATIONS

6 CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

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

10 CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING

11 ACTIVITIES

12 For an additional amount for “Contributions for  
13 International Peacekeeping Activities”, \$383,600,000, to  
14 remain available until September 30, 2009, of which  
15 \$333,600,000 shall be made available for the United Na-  
16 tions-African Union Hybrid Mission in Darfur.

17 RELATED AGENCY

18 BROADCASTING BOARD OF GOVERNORS

19 INTERNATIONAL BROADCASTING OPERATIONS

20 For an additional amount for “International Broad-  
21 casting Operations”, \$3,000,000, to remain available until  
22 September 30, 2009.

1           BILATERAL ECONOMIC ASSISTANCE  
2           FUNDS APPROPRIATED TO THE PRESIDENT  
3           INTERNATIONAL DISASTER ASSISTANCE

4           For an additional amount for “International Disaster  
5 Assistance”, \$240,000,000, to remain available until ex-  
6 pended.

7           OPERATING EXPENSES OF THE UNITED STATES AGENCY  
8           FOR INTERNATIONAL DEVELOPMENT

9           For an additional amount for “Operating Expenses  
10 of the United States Agency for International Develop-  
11 ment”, \$149,500,000, to remain available until September  
12 30, 2009: *Provided*, That of the funds appropriated under  
13 this heading, not more than \$25,000,000 shall be made  
14 available to establish and implement a coordinated civilian  
15 response capacity at the United States Agency for Inter-  
16 national Development.

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

20           For an additional amount for “Operating Expenses  
21 of the United States Agency for International Develop-  
22 ment Office of Inspector General”, \$4,000,000, to remain  
23 available until September 30, 2009.

## 1 OTHER BILATERAL ECONOMIC ASSISTANCE

## 2 ECONOMIC SUPPORT FUND

3 For an additional amount for “Economic Support  
4 Fund”, \$1,962,500,000, to remain available until Sep-  
5 tember 30, 2009, of which not more than \$398,000,000  
6 may be made available for assistance for Iraq,  
7 \$150,000,000 shall be made available for assistance for  
8 Jordan to meet the needs of Iraqi refugees, and up to  
9 \$53,000,000 may be made available for energy-related as-  
10 sistance for North Korea, notwithstanding any other pro-  
11 vision of law: *Provided*, That not more than \$200,000,000  
12 of the funds appropriated under this heading in this sub-  
13 chapter shall be made available for assistance for the West  
14 Bank: *Provided further*, That funds made available pursu-  
15 ant to the previous proviso shall be subject to the regular  
16 notification procedures of the Committees on Appropria-  
17 tions: *Provided further*, That the funds made available  
18 under this heading for energy-related assistance for North  
19 Korea may be made available to support the goals of the  
20 Six Party Talks Agreements after the Secretary of State  
21 determines and reports to the Committees on Appropria-  
22 tions that North Korea is continuing to fulfill its commit-  
23 ments under such agreements.

## 1 DEPARTMENT OF STATE

## 2 DEMOCRACY FUND

3 For an additional amount for “Democracy Fund”,  
4 \$76,000,000, to remain available until September 30,  
5 2009, of which \$75,000,000 shall be for democracy pro-  
6 grams in Iraq and \$1,000,000 shall be for democracy pro-  
7 grams in Chad.

## 8 INTERNATIONAL NARCOTICS CONTROL AND LAW

## 9 ENFORCEMENT

10 For an additional amount for “International Nar-  
11 cotics Control and Law Enforcement”, \$520,000,000, to  
12 remain available until September 30, 2009, of which not  
13 more than \$25,000,000 shall be made available for secu-  
14 rity assistance for the West Bank: *Provided*, That of the  
15 funds appropriated under this heading, \$1,000,000 shall  
16 be made available for the Office of the United Nations  
17 High Commissioner for Human Rights in Mexico.

## 18 MIGRATION AND REFUGEE ASSISTANCE

19 For an additional amount for “Migration and Ref-  
20 ugee Assistance”, \$330,500,000, to remain available until  
21 expended.

## 22 UNITED STATES EMERGENCY REFUGEE AND MIGRATION

## 23 ASSISTANCE FUND

24 For an additional amount for “United States Emer-  
25 gency Refugee and Migration Assistance Fund”,  
26 \$36,608,000, to remain available until expended.



1 \$500,000,000 of the funds appropriated under this head-  
2 ing shall be available for diplomatic operations in Iraq.

3 OFFICE OF INSPECTOR GENERAL

4 (INCLUDING TRANSFER OF FUNDS)

5 For an additional amount for “Office of Inspector  
6 General”, \$57,000,000, which shall become available on  
7 October 1, 2008 and remain available through September  
8 30, 2009: *Provided*, That \$36,500,000 shall be transferred  
9 to the Special Inspector General for Iraq Reconstruction  
10 for reconstruction oversight and up to \$5,000,000 shall  
11 be transferred to the Special Inspector General for Af-  
12 ghanistan Reconstruction for reconstruction oversight.

13 EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

14 For an additional amount for “Embassy Security,  
15 Construction, and Maintenance”, \$41,300,000, which  
16 shall become available on October 1, 2008 and remain  
17 available until expended, for facilities in Afghanistan.

18 INTERNATIONAL ORGANIZATIONS

19 CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

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



1 available on October 1, 2008 and remain available through  
2 September 30, 2010: *Provided*, That such assistance  
3 should be carried out consistent with the purposes of sec-  
4 tion 103(a)(1) of the Foreign Assistance Act of 1961: *Pro-*  
5 *vided further*, That not more than \$50,000,000 should be  
6 made available for local or regional purchase and distribu-  
7 tion of food: *Provided further*, That the Secretary of State  
8 shall submit to the Committees on Appropriations not  
9 later than 45 days after enactment of this Act, and prior  
10 to the initial obligation of funds appropriated under this  
11 heading, a report on the proposed uses of such funds to  
12 alleviate hunger and malnutrition, including a list of those  
13 countries facing significant food shortages.

14 INTERNATIONAL DISASTER ASSISTANCE

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

18 OPERATING EXPENSES OF THE UNITED STATES AGENCY

19 FOR INTERNATIONAL DEVELOPMENT

20 For an additional amount for “Operating Expenses  
21 of the United States Agency for International Develop-  
22 ment”, \$93,000,000, which shall become available on Oc-  
23 tober 1, 2008 and remain available through September 30,  
24 2009.

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

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

9 OTHER BILATERAL ECONOMIC ASSISTANCE  
10 ECONOMIC SUPPORT FUND

11 For an additional amount for “Economic Support  
12 Fund”, \$1,132,300,000, which shall become available on  
13 October 1, 2008 and remain available through September  
14 30, 2009, of which not more than \$110,000,000 may be  
15 made available for assistance for Iraq, \$100,000,000 shall  
16 be made available for assistance for Jordan, not more than  
17 \$455,000,000 may be made available for assistance for Af-  
18 ghanistan, not more than \$150,000,000 may be made  
19 available for assistance for Pakistan, not more than  
20 \$150,000,000 shall be made available for assistance for  
21 the West Bank, and \$15,000,000 may be made available  
22 for energy-related assistance for North Korea, notwith-  
23 standing any other provision of law.

1 DEPARTMENT OF STATE  
2 INTERNATIONAL NARCOTICS CONTROL AND LAW  
3 ENFORCEMENT

4 For an additional amount for “International Nar-  
5 cotics Control and Law Enforcement”, \$151,000,000,  
6 which shall become available on October 1, 2008 and re-  
7 main available through September 30, 2009, of which not  
8 more than \$50,000,000 shall be made available for secu-  
9 rity assistance for the West Bank.

10 MIGRATION AND REFUGEE ASSISTANCE

11 For an additional amount for “Migration and Ref-  
12 ugee Assistance”, \$350,000,000, which shall become avail-  
13 able on October 1, 2008 and remain available until ex-  
14 pended.

15 NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND  
16 RELATED PROGRAMS

17 For an additional amount for “Nonproliferation,  
18 Anti-Terrorism, Demining and Related Programs”,  
19 \$4,500,000, for humanitarian demining assistance for  
20 Iraq, which shall become available on October 1, 2008 and  
21 remain available through September 30, 2009.

22 MILITARY ASSISTANCE

23 FUNDS APPROPRIATED TO THE PRESIDENT

24 FOREIGN MILITARY FINANCING PROGRAM

25 For an additional amount for “Foreign Military Fi-  
26 nancing Program”, \$145,000,000, which shall become

1 available on October 1, 2008 and remain available through  
 2 September 30, 2009, of which \$100,000,000 shall be made  
 3 available for assistance for Jordan: *Provided*, That section  
 4 3802(c) of title III, chapter 8 of Public of Law 110–28  
 5 shall apply to funds made available under this heading for  
 6 assistance for Lebanon.

7 PEACEKEEPING OPERATIONS

8 For an additional amount for “Peacekeeping Oper-  
 9 ations”, \$85,000,000, which shall become available on Oc-  
 10 tober 1, 2008 and remain available through September 30,  
 11 2009.

12 SUBCHAPTER C—GENERAL PROVISIONS—THIS

13 CHAPTER

14 EXTENSION OF AUTHORITIES

15 SEC. 1401. Funds appropriated by this chapter may  
 16 be obligated and expended notwithstanding section 10 of  
 17 Public Law 91–672 (22 U.S.C. 2412), section 15 of the  
 18 State Department Basic Authorities Act of 1956 (22  
 19 U.S.C. 2680), section 313 of the Foreign Relations Au-  
 20 thorization Act, Fiscal Year 1994 and 1995 (22 U.S.C.  
 21 6212), and section 504(a)(1) of the National Security Act  
 22 of 1947 (50 U.S.C. 414(a)(1)).

23 IRAQ

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

25 (1) None of the funds appropriated by this  
 26 chapter for infrastructure maintenance activities in

1 Iraq may be made available until the Secretary of  
2 State certifies and reports to the Committees on Ap-  
3 propriations that the Governments of the United  
4 States and Iraq have entered into, and are imple-  
5 menting, an asset transfer agreement that includes  
6 commitments by the Government of Iraq to maintain  
7 United States-funded infrastructure in Iraq.

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

11 (b) ANTI-CORRUPTION.—None of the funds appro-  
12 priated by this chapter for rule of law programs in Iraq  
13 may be made available for assistance for the Government  
14 of Iraq until the Secretary of State certifies and reports  
15 to the Committees on Appropriations that a comprehen-  
16 sive anti-corruption strategy has been developed, and is  
17 being implemented, by the Government of Iraq, and the  
18 Secretary of State submits a list, in classified form if nec-  
19 essary, to the Committees on Appropriations of senior  
20 Iraqi officials who the Secretary has credible evidence to  
21 believe have committed corrupt acts.

22 (c) PROVINCIAL RECONSTRUCTION TEAMS.—None of  
23 the funds appropriated by this chapter for the operational  
24 or program expenses of Provincial Reconstruction Teams  
25 (PRTs) in Iraq may be made available until the Secretary

1 of State submits a report to the Committees on Appropria-  
2 tions detailing—

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

5 (2) anticipated costs associated with PRT oper-  
6 ations, programs, and eventual winding down and  
7 close out, including security for PRT personnel and  
8 anticipated Government of Iraq contributions; and

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

11 (d) COMMUNITY STABILIZATION PROGRAM.—None of  
12 the funds appropriated by this chapter for the Community  
13 Stabilization Program in Iraq may be made available until  
14 the Secretary of State certifies and reports to the Commit-  
15 tees on Appropriations that the United States Agency for  
16 International Development is implementing recommenda-  
17 tions contained in Office of Inspector General Audit Re-  
18 port No. E-267-08-001-P to ensure accountability of  
19 funds.

20 (e) MATCHING REQUIREMENT.—

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

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

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

6           (B) the Community Action Program and  
7 other assistance through civil society organiza-  
8 tions;

9           (C) humanitarian demining; or

10           (D) assistance for refugees, internally dis-  
11 placed persons, and civilian victims of the mili-  
12 tary operations.

13           (3) The Secretary of State shall certify to the  
14 Committees on Appropriations prior to the initial ob-  
15 ligation of funds pursuant to this section that the  
16 Government of Iraq has committed to obligate  
17 matching funds on a dollar-for-dollar basis. The Sec-  
18 retary shall submit a report to the Committees on  
19 Appropriations not later than September 30, 2008  
20 and 180 days thereafter, detailing the amounts of  
21 funds obligated and expended by the Government of  
22 Iraq to meet the requirements of this section.

23           (4) Not later than 45 days after enactment of  
24 this Act, the Secretary of State shall submit a report  
25 to the Committees on Appropriations detailing the

1 amounts provided by the Government of Iraq since  
2 June 30, 2004, to assist Iraqi refugees in Syria,  
3 Jordan, and elsewhere, and the amount of such as-  
4 sistance the Government of Iraq plans to provide in  
5 fiscal year 2008. The Secretary shall work expedi-  
6 tiously with the Government of Iraq to establish an  
7 account within its annual budget sufficient to, at a  
8 minimum, match United States contributions on a  
9 dollar-for-dollar basis to organizations and programs  
10 for the purpose of assisting Iraqi refugees.

11 (f) VETTING.—Prior to the initial obligation of funds  
12 appropriated for assistance for Iraq in this chapter, the  
13 Secretary of State shall, in consultation with the heads  
14 of other Federal departments and agencies, take appro-  
15 priate steps to ensure that such funds are not provided  
16 to or through any individual, private entity, or educational  
17 institution that the Secretary knows or has reason to be-  
18 lieve advocates, plans, sponsors, or engages in, terrorist  
19 activities.

20 (g) IRAQ RELIEF AND RECONSTRUCTION FUND.—

21 (1) Notwithstanding any other provision of law,  
22 the expired balances of funds appropriated or other-  
23 wise made available under the heading “Iraq Relief  
24 and Reconstruction Fund” in prior Acts making ap-



1 nomic, social and political status of Afghan women and  
2 girls.

3 (b) HIGHER EDUCATION.—Of the funds appropriated  
4 by this chapter under the heading “Economic Support  
5 Fund” that are made available for education programs in  
6 Afghanistan, not less than 50 percent shall be made avail-  
7 able to support higher education and vocational training  
8 programs in law, accounting, engineering, public adminis-  
9 tration, and other disciplines necessary to rebuild the  
10 country, in which the participation of women is empha-  
11 sized.

12 (c) CIVILIAN ASSISTANCE.—Of the funds appro-  
13 priated by this chapter under the heading “Economic Sup-  
14 port Fund” that are available for assistance for Afghani-  
15 stan, not less than \$10,000,000 shall be made available  
16 for continued support of the United States Agency for  
17 International Development’s Afghan Civilian Assistance  
18 Program, and not less than \$2,000,000 shall be made  
19 available for a United States contribution to the North  
20 Atlantic Treaty Organization/International Security As-  
21 sistance Force Post-Operations Humanitarian Relief  
22 Fund.

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

1           (1) submit a report to the Committees on Ap-  
2           propriations on actions being taken by the Govern-  
3           ment of Afghanistan to combat corruption within the  
4           national and provincial governments, including to re-  
5           move and prosecute officials who have committed  
6           corrupt acts;

7           (2) submit a list to the Committees on Appro-  
8           priations, in classified form if necessary, of senior  
9           Afghan officials who the Secretary has credible evi-  
10          dence to believe have committed corrupt acts; and

11          (3) certify and report to the Committees on Ap-  
12          propriations that effective mechanisms are in place  
13          to ensure that assistance to national government  
14          ministries and provincial governments will be prop-  
15          erly accounted for.

16   WAIVER OF CERTAIN SANCTIONS AGAINST NORTH KOREA

17   SEC. 1404. (a) ANNUAL WAIVER AUTHORITY.—

18          (1) IN GENERAL.—Except as provided in sub-  
19          section (b), the President may waive in whole or in  
20          part, with respect to North Korea, the application of  
21          any sanction under section 102(b) of the Arms Ex-  
22          port Control Act (22 U.S.C. 2799aa–1(b)), for the  
23          purpose of—

24                  (A) assisting in the implementation and  
25                  verification of the compliance by North Korea  
26                  with its commitment, undertaken in the Joint

1 Statement of September 19, 2005, to abandon  
2 all nuclear weapons and existing nuclear pro-  
3 grams as part of the verifiable denuclearization  
4 of the Korean Peninsula; and

5 (B) promoting the elimination of the capa-  
6 bility of North Korea to develop, deploy, trans-  
7 fer, or maintain weapons of mass destruction  
8 and their delivery systems.

9 (2) DURATION OF WAIVER.—Any waiver issued  
10 under this subsection shall expire at the end of the  
11 calendar year in which it is issued.

12 (b) EXCEPTIONS.—

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

21 (A) all reasonable steps will be taken to as-  
22 sure that the articles or services exported or  
23 otherwise provided will not be used to improve  
24 the military capabilities of the armed forces of  
25 North Korea; and

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

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

10           (A) an activity described in subparagraph  
11 (A) of section 102(b)(1) of the Arms Export  
12 Control Act that occurs after September 19,  
13 2005, and before the date of the enactment of  
14 this Act;

15           (B) an activity described in subparagraph  
16 (C) of such section that occurs after September  
17 19, 2005; or

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

21           (3) EXCEPTION RELATED TO CERTAIN ACTIVI-  
22 TIES OCCURRING AFTER DATE OF ENACTMENT.—  
23 The authority under subsection (a) shall not apply  
24 with respect to an activity described in subparagraph  
25 (A) or (B) of section 102(b)(1) of the Arms Export

1 Control Act that occurs after the date of the enact-  
2 ment of this Act.

3 (c) NOTIFICATIONS AND REPORTS.—

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

8 (2) ANNUAL REPORT.—Not later than January  
9 31, 2009, and annually thereafter, the President  
10 shall submit to the appropriate congressional com-  
11 mittees a report that—

12 (A) lists all waivers issued under sub-  
13 section (a) during the preceding year;

14 (B) describes in detail the progress that is  
15 being made in the implementation of the com-  
16 mitment undertaken by North Korea, in the  
17 Joint Statement of September 19, 2005, to  
18 abandon all nuclear weapons and existing nu-  
19 clear programs as part of the verifiable  
20 denuclearization of the Korean Peninsula;

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

24 (D) lists and describes the progress and  
25 shortcomings, in the preceding year, of all other

1 programs promoting the elimination of the ca-  
2 pability of North Korea to develop, deploy,  
3 transfer, or maintain weapons of mass destruc-  
4 tion or their delivery systems.

5 (d) APPROPRIATE CONGRESSIONAL COMMITTEES  
6 DEFINED.—In this section, the term “appropriate con-  
7 gressional committees” means—

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

10 (2) the Committees on Appropriations, Armed  
11 Services, and Foreign Affairs of the House of Rep-  
12 resentatives.

13 MEXICO

14 SEC. 1405. (a) ASSISTANCE FOR MEXICO.—Of the  
15 funds appropriated in subchapter A under the heading  
16 “International Narcotics Control and Law Enforcement”,  
17 not more than \$350,000,000 may be made available for  
18 assistance for Mexico, only to combat drug trafficking and  
19 related violence and organized crime, and for judicial re-  
20 form, anti-corruption, and rule of law activities: *Provided*,  
21 That none of the funds made available under this section  
22 shall be made available for budget support or as cash pay-  
23 ments: *Provided further*, That none of the funds made  
24 available under this section shall be available for obligation  
25 until the Secretary of State determines and reports to the  
26 Committees on Appropriations that vetting procedures are

1 in place to ensure that members and units of the Mexican  
2 military and police forces that receive assistance pursuant  
3 to this section have not been involved in human rights vio-  
4 lations or corrupt acts.

5 (b) ALLOCATION OF FUNDS.—Twenty-five percent of  
6 the funds made available by subchapter A for assistance  
7 for Mexico under the heading “International Narcotics  
8 Control and Law Enforcement” may be obligated only  
9 after the Secretary of State determines and reports to the  
10 Committees on Appropriations that:

11 (1) The Government of Mexico is—

12 (A) strengthening the legal authority and  
13 independence of the National Human Rights  
14 Commission;

15 (B) establishing police complaints commis-  
16 sions with authority and independence to re-  
17 ceive complaints and carry out effective inves-  
18 tigations;

19 (C) establishing an independent mecha-  
20 nism, with representation from civil society, to  
21 monitor programs to combat drug trafficking  
22 and related violence and organized crime, judi-  
23 cial reform, anti-corruption, and rule of law ac-  
24 tivities to ensure due process and the protection  
25 of freedoms of expression, association, and as-

1           sembly, and rights of privacy, in accordance  
2           with Mexican and international law;

3           (D) is enforcing the prohibition on the use  
4           of testimony obtained through torture or other  
5           ill-treatment in violation of Mexican and inter-  
6           national law;

7           (E) is ensuring that the Mexican military  
8           justice system is transferring all cases involving  
9           allegations of human rights violations by mili-  
10          tary personnel to civilian prosecutors and judi-  
11          cial authorities, and that the armed forces are  
12          fully cooperating with civilian prosecutors and  
13          judicial authorities in prosecuting and pun-  
14          ishing in civilian courts members of the armed  
15          forces who have been credibly alleged to have  
16          committed such violations; and

17          (F) is ensuring that federal and state po-  
18          lice forces are fully cooperating with prosecu-  
19          tors and judicial authorities in prosecuting and  
20          punishing members of the police forces who  
21          have been credibly alleged to have committed  
22          violations of human rights.

23          (2) Civilian prosecutors and judicial authorities  
24          are investigating, prosecuting and punishing mem-  
25          bers of the Mexican military and police forces who

1        have been credibly alleged to have committed human  
2        rights violations.

3        (c) EXCEPTION.—Notwithstanding subsection (b), of  
4        the funds made available for assistance for Mexico pursu-  
5        ant to this section, \$3,000,000 shall be made available for  
6        technical and other assistance to enable the Government  
7        of Mexico to implement a unified national registry of fed-  
8        eral, state, and municipal police officers, and \$5,000,000  
9        should be made available to the Bureau of Alcohol, To-  
10       bacco, Firearms and Explosives to deploy special agents  
11       in Mexico to support Mexican law enforcement agencies  
12       in tracing seized firearms and investigating firearms traf-  
13       ficking cases.

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

20       (e) NOTIFICATION.—Funds made available for Mex-  
21       ico in subchapter A shall be subject to the regular notifica-  
22       tion procedures of the Committees on Appropriations and  
23       section 634A of the Foreign Assistance Act of 1961 (22  
24       U.S.C. 2394–1).

1 (f) SPENDING PLAN.—Not later than 45 days after  
2 the date of the enactment of this Act, the Secretary of  
3 State shall submit to the Committees on Appropriations  
4 a detailed spending plan for funds appropriated or other-  
5 wise made available for Mexico in subchapter A, which  
6 shall include a strategy for combating drug trafficking and  
7 related violence and organized crime, judicial reform, pre-  
8 venting corruption, and strengthening the rule of law, with  
9 concrete goals, actions to be taken, budget proposals, and  
10 anticipated results.

11 (g) CONSULTATION.—Not later than 90 days after  
12 the date of the enactment of this Act, and every 120 days  
13 thereafter until September 30, 2010, the Secretary of  
14 State shall consult with Mexican and internationally rec-  
15 ognized human rights organizations on progress in meet-  
16 ing the requirements described in subsection (b).

17 CENTRAL AMERICA

18 SEC. 1406. (a) ASSISTANCE FOR THE COUNTRIES OF  
19 CENTRAL AMERICA.—Of the funds appropriated in sub-  
20 chapter A under the headings “International Narcotics  
21 Control and Law Enforcement” and “Economic Support  
22 Fund”, not more than \$100,000,000 may be made avail-  
23 able for assistance for the countries of Central America,  
24 Haiti, and the Dominican Republic only to combat drug  
25 trafficking and related violence and organized crime, and  
26 for judicial reform, anti-corruption, and rule of law activi-

1 ties: *Provided*, That of the funds appropriated under the  
2 heading “Economic Support Fund”, \$40,000,000 shall be  
3 made available through the United States Agency for  
4 International Development for an Economic and Social  
5 Development Fund for Central America: *Provided further*,  
6 That of the funds made available pursuant to this section,  
7 \$5,000,000 shall be made available for assistance for Haiti  
8 and \$5,000,000 shall be made available for assistance for  
9 the Dominican Republic: *Provided further*, That of the  
10 funds made available pursuant to this section that are  
11 available for assistance for Guatemala, not less than  
12 \$1,000,000 shall be made available for a United States  
13 contribution to the International Commission Against Im-  
14 punity in Guatemala: *Provided further*, That none of the  
15 funds shall be made available for budget support or as  
16 cash payments: *Provided further*, That, with the exception  
17 of the first and third provisos in this section, none of the  
18 funds shall be available for obligation until the Secretary  
19 of State determines and reports to the Committees on Ap-  
20 propriations that vetting procedures are in place to ensure  
21 that members and units of the military and police forces  
22 of the countries of Central America, Haiti and the Domin-  
23 ican Republic that receive assistance pursuant to this sec-  
24 tion have not been involved in human rights violations or  
25 corrupt acts.

1           (b) ALLOCATION OF FUNDS.—Twenty-five percent of  
2 the funds made available by subchapter A for assistance  
3 for the countries of Central America, Haiti and the Do-  
4 minican Republic under the heading “International Nar-  
5 cotics Control and Law Enforcement” may be obligated  
6 only after the Secretary of State determines and reports  
7 to the Committees on Appropriations that the government  
8 of such country is—

9           (1) establishing a police complaints commission  
10 with authority and independence to receive com-  
11 plaints and carry out effective investigations;

12           (2) implementing reforms to improve the capac-  
13 ity and ensure the independence of the judiciary;  
14 and

15           (3) suspending, prosecuting and punishing  
16 members of the military and police forces who have  
17 been credibly alleged to have committed violations of  
18 human rights and corrupt acts.

19           (c) REPORT.—The report required in subsection (b)  
20 shall include actions taken with respect to each require-  
21 ment and the cases or issues brought to the attention of  
22 the Secretary for which the response or action taken has  
23 been inadequate.

24           (d) NOTIFICATION.—Funds made available for assist-  
25 ance for the countries of Central America, Haiti and the

1 Dominican Republic in subchapter A shall be subject to  
2 the regular notification procedures of the Committees on  
3 Appropriations and section 634A of the Foreign Assist-  
4 ance Act of 1961 (22 U.S.C. 2394–1).

5 (e) SPENDING PLAN.—Not later than 45 days after  
6 enactment of this Act the Secretary of State shall submit  
7 to the Committees on Appropriations a detailed spending  
8 plan for funds appropriated or otherwise made available  
9 for the countries of Central America, Haiti and the Do-  
10 minican Republic in subchapter A, which shall include a  
11 strategy for combating drug trafficking and related vio-  
12 lence and organized crime, judicial reform, preventing cor-  
13 ruption, and strengthening the rule of law, with concrete  
14 goals, actions to be taken, budget proposals and antici-  
15 pated results.

16 (f) CONSULTATION.—Not later than 90 days after  
17 the date of enactment of this Act and every 120 days  
18 thereafter until September 30, 2010, the Secretary of  
19 State shall consult with internationally recognized human  
20 rights organizations, and human rights organizations in  
21 the countries of Central America, Haiti and the Domini-  
22 can Republic receiving assistance pursuant to this section,  
23 on progress in meeting the requirements described in sub-  
24 section (b).

1 (g) DEFINITION.—For the purposes of this section,  
2 the term “countries of Central America” means Belize,  
3 Costa Rica, El Salvador, Guatemala, Honduras, Nica-  
4 ragua, and Panama.

5 TECHNICAL PROVISIONS

6 SEC. 1407. (a) ADMINISTRATIVE EXPENSES.—Of the  
7 funds appropriated or otherwise made available under the  
8 heading “Economic Support Fund” by title III of the De-  
9 partment of State, Foreign Operations, and Related Pro-  
10 grams Appropriations Act, 2008 (division J of Public Law  
11 110–161), up to \$7,800,000 may be made available, in  
12 addition to amounts otherwise available for such purposes,  
13 for administrative expenses of the United States Agency  
14 for International Development for alternative development  
15 programs in the Andean region of South America. These  
16 funds may be used to reimburse funds appropriated under  
17 the heading “Operating Expenses of the United States  
18 Agency for International Development” for obligations in-  
19 curred for the purposes provided under this section prior  
20 to enactment of this Act.

21 (b) AUTHORITY.—Funds appropriated or otherwise  
22 made available by title III of the Department of State,  
23 Foreign Operations, and Related Programs Appropria-  
24 tions Act, 2008 (division J of Public Law 110–161) under  
25 the heading “Economic Support Fund” that are available  
26 for a competitively awarded grant for nuclear security ini-

1 tiatives relating to North Korea shall be made available  
2 notwithstanding any other provision of law.

3 (c) EXTENSION OF AUTHORITY.—Not more than  
4 \$1,350,000 of the funds appropriated or otherwise made  
5 available under the heading “Foreign Military Financing  
6 Program” by the Department of State, Foreign Oper-  
7 ations, and Related Programs Appropriations Act, 2008  
8 (division J of Public Law 110–161) that were previously  
9 transferred to and merged with “Diplomatic and Consular  
10 Programs” may be made available for any purposes au-  
11 thorized for that account, of which up to \$500,000 shall  
12 be made available to increase the capacity of the United  
13 States Embassy in Mexico City to vet members and units  
14 of Mexican military and police forces that receive assist-  
15 ance made available by this Act and to monitor the uses  
16 of such assistance.

17 (d) REIMBURSEMENTS.—Any agreement for the  
18 transfer or allocation of funds appropriated by this Act,  
19 or prior Acts, entered into between the United States  
20 Agency for International Development and another agency  
21 of the United States Government under the authority of  
22 section 632(a) of the Foreign Assistance Act of 1961 or  
23 any comparable provision of law, shall include the provi-  
24 sion of sufficient funds to fully reimburse the United  
25 States Agency for International Development for the ad-

1 ministrative costs, including the cost of direct hire per-  
2 sonnel, incurred in implementing and managing the pro-  
3 grams and activities under such transfer or allocation.  
4 Such funds transferred or allocated to the United States  
5 Agency for International Development for administrative  
6 costs shall be transferred to and merged with “Operating  
7 Expenses of the United States Agency for International  
8 Development”.

9 (e) EXCEPTION.—Section 10002 of title X of this Act  
10 shall not apply to this section.

11 (f) SPENDING AUTHORITY.—Funds made available  
12 by this chapter may be expended notwithstanding section  
13 699K of the Department of State, Foreign Operations,  
14 and Related Programs Appropriations Act, 2008 (division  
15 J of Public Law 110–161).

16 BUYING POWER MAINTENANCE ACCOUNT

17 (INCLUDING TRANSFER OF FUNDS)

18 SEC. 1408. (a) Of the funds appropriated under the  
19 heading “Diplomatic and Consular Programs” and allo-  
20 cated by section 3810 of the U.S. Troop Readiness, Vet-  
21 erans’ Care, Katrina Recovery, and Iraq Accountability  
22 Appropriations Act, 2007 (Public Law 110–28),  
23 \$26,000,000 shall be transferred to and merged with  
24 funds in the “Buying Power Maintenance Account”: *Pro-*  
25 *vided*, That of the funds made available by this chapter  
26 up to an additional \$74,000,000 may be transferred to

1 and merged with the “Buying Power Maintenance Ac-  
2 count”, subject to the regular notification procedures of  
3 the Committees on Appropriations and in accordance with  
4 the procedures in section 34 of the State Department  
5 Basic Authorities Act of 1956 (22 U.S.C. 2706). Any  
6 funds transferred pursuant to this section shall be avail-  
7 able, without fiscal year limitation, pursuant to section 24  
8 of the State Department Basic Authorities Act of 1956  
9 (22 U.S.C. 2696).

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

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

17 SERBIA

18 SEC. 1409. (a) Of the funds made available for assist-  
19 ance for Serbia under the heading “Assistance for Eastern  
20 Europe and the Baltic States” by title III of the Depart-  
21 ment of State, Foreign Operations, and Related Programs  
22 Appropriations Act, 2008 (division J of Public Law 110–  
23 161), an amount equivalent to the costs of damage to the  
24 United States Embassy in Belgrade, Serbia, as estimated  
25 by the Secretary of State, resulting from the February 21,  
26 2008 attack on such Embassy, shall be transferred to, and

1 merged with, funds provided under the heading “Embassy  
2 Security, Construction, and Maintenance” to be used for  
3 necessary repairs or future construction.

4 (b) The requirements of subsection (a) shall not apply  
5 if the Secretary of State certifies to the Committees on  
6 Appropriations that the Government of Serbia has pro-  
7 vided full compensation to the Department of State for  
8 damages to the United States Embassy in Belgrade, Ser-  
9 bia resulting from the February 21, 2008 attack on such  
10 Embassy.

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

#### 13 RESCISSIONS

#### 14 (INCLUDING RESCISSIONS)

#### 15 SEC. 1410. (a) WORLD FOOD PROGRAM.—

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

21 (2) Of the funds appropriated under the head-  
22 ing “Andean Counterdrug Initiative” in prior acts  
23 making appropriations for foreign operations, export  
24 financing, and related programs, \$20,000,000 are  
25 rescinded.

26 (b) SUDAN.—

1           (1) For an additional amount for “International  
2       Narcotics Control and Law Enforcement”,  
3       \$10,000,000, for assistance for Sudan to support  
4       formed police units, to remain available until Sep-  
5       tember 30, 2009, and subject to prior consultation  
6       with the Committees on Appropriations.

7           (2) Of the funds appropriated under the head-  
8       ing “International Narcotics Control and Law En-  
9       forcement” in prior acts making appropriations for  
10      foreign operations, export financing, and related pro-  
11      grams, \$10,000,000 are rescinded.

12      (c) MEXICO.—Of the unobligated balances of funds  
13      appropriated for “Iraq Relief and Reconstruction Fund”  
14      in prior Acts making appropriations for foreign oper-  
15      ations, export financing, and related programs,  
16      \$50,000,000 are rescinded, notwithstanding section  
17      1402(g) of this Act.

18      (d) HORN OF AFRICA.—

19           (1) For an additional amount for “Economic  
20      Support Fund”, \$40,000,000 for programs to pro-  
21      mote development and counter extremism in the  
22      Horn of Africa, to be administered by the United  
23      States Agency for International Development, and to  
24      remain available until September 30, 2009.



1 of 1961 (22 U.S.C. 2304(a)(2), 2371, 2378d) and section  
2 40A of the Arms Export Control Act (22 U.S.C. 2780).  
3 Any exercise of the authority of section 506 of the Foreign  
4 Assistance Act pursuant to this section may include the  
5 authority to acquire helicopters by contract.

6 FOOD SECURITY AND CYCLONE NARGIS RELIEF

7 (INCLUDING RESCISSION OF FUNDS)

8 SEC. 1412. (a) For an additional amount for “Inter-  
9 national Disaster Assistance”, \$225,000,000, to address  
10 the international food crisis globally and for assistance for  
11 Burma to address the effects of Cyclone Nargis: *Provided*,  
12 That not less than \$125,000,000 should be made available  
13 for the local or regional purchase and distribution of food  
14 to address the international food crisis: *Provided further*,  
15 That notwithstanding any other provision of law, none of  
16 the funds appropriated under this heading may be made  
17 available for assistance for the State Peace and Develop-  
18 ment Council.

19 (b) Of the unexpended balances of funds appropriated  
20 under the heading “Millennium Challenge Corporation” in  
21 prior Acts making appropriations for foreign operations,  
22 export financing and related programs, \$225,000,000 are  
23 rescinded.

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

## 1 SOUTH AFRICA

2 SEC. 1413. The Secretary of State, after consultation  
3 with the Attorney General and the Secretary of Homeland  
4 Security, may determine, in the Secretary's sole and  
5 unreviewable discretion considering the foreign policy in-  
6 terests of the United States, that for activities undertaken  
7 in opposition to apartheid rule, subsections (a)(2) and  
8 (a)(3)(B) of 8 U.S.C. 1182, as amended, shall not apply.

## 9 JORDAN

## 10 (INCLUDING RESCISSION OF FUNDS)

11 SEC. 1414. (a) For an additional amount for "Eco-  
12 nomic Support Fund" for assistance for Jordan,  
13 \$100,000,000, to remain available until September 30,  
14 2009.

15 (b) For an additional amount for "Foreign Military  
16 Financing Program" for assistance for Jordan,  
17 \$200,000,000, to remain available until September 30,  
18 2009.

19 (c) Of the unexpended balances of funds appropriated  
20 under the heading "Millennium Challenge Corporation" in  
21 prior Acts making appropriations for foreign operations,  
22 export financing, and related programs, \$300,000,000 are  
23 rescinded.

24 (d) Section 10002 of title X of this Act shall not  
25 apply to this section.

## 1 ALLOCATIONS

2 SEC. 1415. (a) Funds provided by this chapter for  
3 the following accounts shall be made available for pro-  
4 grams and countries in the amounts contained in the re-  
5 spective tables included in the explanatory statement ac-  
6 companying this Act:

7 “Diplomatic and Consular Programs”.

8 “Economic Support Fund”.

9 (b) Any proposed increases or decreases to the  
10 amounts contained in such tables in the statement accom-  
11 panying this Act shall be subject to the regular notifica-  
12 tion procedures of the Committees on Appropriations and  
13 section 634A of the Foreign Assistance Act of 1961.

## 14 REPROGRAMMING AUTHORITY

15 SEC. 1416. Notwithstanding any other provision of  
16 law, to include minimum funding requirements or funding  
17 directives, funds made available under the headings “De-  
18 velopment Assistance” and “Economic Support Fund” in  
19 prior Acts making appropriations for foreign operations,  
20 export financing, and related programs may be made  
21 available to address critical food shortages, subject to  
22 prior consultation with, and the regular notification proce-  
23 dures of, the Committees on Appropriations.

## 24 SPENDING PLANS AND NOTIFICATION PROCEDURES

25 SEC. 1417. (a) SUBCHAPTER A SPENDING PLAN.—  
26 Not later than 45 days after the enactment of this Act

1 the Secretary of State shall submit to the Committees on  
2 Appropriations a report detailing planned expenditures for  
3 funds appropriated under the headings in subchapter A,  
4 except for funds appropriated under the headings “Inter-  
5 national Disaster Assistance”, “Migration and Refugee  
6 Assistance”, and “United States Emergency Refugee and  
7 Migration Assistance Fund”.

8 (b) SUBCHAPTER B SPENDING PLAN.—The Sec-  
9 retary of State shall submit to the Committees on Appro-  
10 priations not later than November 1, 2008, and prior to  
11 the initial obligation of funds, a detailed spending plan  
12 for funds appropriated or otherwise made available in sub-  
13 chapter B, except for funds appropriated under the head-  
14 ings “International Disaster Assistance”, “Migration and  
15 Refugee Assistance”, and “United States Emergency Ref-  
16 ugee and Migration Assistance Fund”.

17 (c) NOTIFICATION.—Funds made available in this  
18 chapter shall be subject to the regular notification proce-  
19 dures of the Committees on Appropriations and section  
20 634A of the Foreign Assistance Act of 1961.

21 TERMS AND CONDITIONS

22 SEC. 1418. Unless otherwise provided for in this Act,  
23 funds appropriated, or otherwise made available, by this  
24 chapter shall be available under the authorities and condi-  
25 tions provided in the Department of State, Foreign Oper-

1 ations, and Related Programs Appropriations Act, 2008  
2 (division J of Public Law 110–161).

3 TITLE II

4 DOMESTIC MATTERS

5 CHAPTER 1

6 DEPARTMENT OF HEALTH AND HUMAN

7 SERVICES

8 FOOD AND DRUG ADMINISTRATION

9 SALARIES AND EXPENSES

10 For an additional amount for salaries and expenses  
11 of the Food and Drug Administration, \$265,000,000, to  
12 remain available until September 30, 2009: *Provided*,  
13 That of the amount provided: (1) \$119,000,000 shall be  
14 for the Center for Food Safety and Applied Nutrition and  
15 related field activities in the Office of Regulatory Affairs;  
16 (2) \$48,500,000 shall be for the Center for Drug Evalua-  
17 tion and Research and related field activities in the Office  
18 of Regulatory Affairs; (3) \$23,500,000 shall be for the  
19 Center for Biologics Evaluation and Research and related  
20 field activities in the Office of Regulatory Affairs; (4)  
21 \$10,700,000 shall be for the Center for Veterinary Medi-  
22 cine and related field activities in the Office of Regulatory  
23 Affairs; (5) \$35,500,000 shall be for the Center for De-  
24 vices and Radiological Health and related field activities  
25 in the Office of Regulatory Affairs; (6) \$6,000,000 shall

1 be for the National Center for Toxicological Research; and  
 2 (7) \$21,800,000 shall be for other activities, including the  
 3 Office of the Commissioner, the Office of Scientific and  
 4 Medical Programs; the Office of Policy, Planning and Pre-  
 5 paredness; the Office of International and Special Pro-  
 6 grams; the Office of Operations; and central services for  
 7 these offices.

8 BUILDINGS AND FACILITIES

9 For an additional amount for plans, construction, re-  
 10 pair, improvement, extension, alteration, and purchase of  
 11 fixed equipment or facilities of or used by the Food and  
 12 Drug Administration, where not otherwise provided,  
 13 \$10,000,000, to remain available until expended.

14 CHAPTER 2

15 DEPARTMENT OF COMMERCE

16 BUREAU OF THE CENSUS

17 PERIODIC CENSUSES AND PROGRAMS

18 For an additional amount for “Periodic Censuses and  
 19 Programs”, \$210,000,000, to remain available until ex-  
 20 pended, for necessary expenses related to the 2010 Decen-  
 21 nial Census: *Provided*, That not less than \$3,000,000 shall  
 22 be transferred to the “Office of Inspector General” at the  
 23 Department of Commerce for necessary expenses associ-  
 24 ated with oversight activities of the 2010 Decennial Cen-  
 25 sus: *Provided further*, That \$1,000,000 shall be used only  
 26 for a reimbursable agreement with the Defense Contract

1 Management Agency to provide continuing contract man-  
2 agement oversight of the 2010 Decennial Census.

3 DEPARTMENT OF JUSTICE

4 UNITED STATES MARSHALS SERVICE

5 SALARIES AND EXPENSES

6 For an additional amount for “Salaries and Ex-  
7 penses”, \$50,000,000, to remain available until September  
8 30, 2009, for the United States Marshals Service to imple-  
9 ment and enforce the Adam Walsh Child Protection and  
10 Safety Act (Public Law 109–248) to track down and ar-  
11 rest non-compliant sex offenders.

12 FEDERAL PRISON SYSTEM

13 SALARIES AND EXPENSES

14 For an additional amount for “Salaries and Ex-  
15 penses”, \$178,000,000, to remain available until Sep-  
16 tember 30, 2008.

17 OFFICE OF JUSTICE PROGRAMS

18 STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

19 For an additional amount for the Edward Byrne Me-  
20 morial Justice Assistance Grant program as authorized by  
21 subpart 1 of part E of title I of Omnibus Crime Control  
22 and Safe Street Act of 1968 (“1968 Act”), (except that  
23 section 1001(c), and the special rules for Puerto Rico  
24 under section 505(g), of the 1968 Act, shall not apply for

1 purposes of this Act), \$490,000,000, to remain available  
2 until September 30, 2008.

3 For an additional amount for “State and Local Law  
4 Enforcement Assistance”, \$100,000,000 for competitive  
5 grants, to remain available until expended, to provide as-  
6 sistance and equipment to local law enforcement along the  
7 Southern border and in High-Intensity Drug Trafficking  
8 Areas to combat criminal narcotic activity stemming from  
9 the Southern border, of which \$10,000,000 shall be for  
10 the ATF Project Gunrunner.

11

## SCIENCE

12 NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

13

### RETURN TO FLIGHT

14 For necessary expenses, not otherwise provided for,  
15 in carrying out return to flight activities associated with  
16 the space shuttle and activities from which funds were  
17 transferred to accommodate return to flight activities,  
18 \$200,000,000, to remain available until September 30,  
19 2009 with such sums as determined by the Administrator  
20 of the National Aeronautics and Space Administration as  
21 available for transfer to and “Science, Aeronautics, Explo-  
22 ration”, and “Exploration Capabilities” for restoration of  
23 funds previously reallocated to meet return to flight activi-  
24 ties.

1                   NATIONAL SCIENCE FOUNDATION  
2                   RESEARCH AND RELATED ACTIVITIES

3           For additional expenses in carrying out the National  
4 Science Foundation Act of 1950, as amended (42 U.S.C.  
5 1861–1875), \$150,000,000, to remain available until Sep-  
6 tember 30, 2009.

7                   EDUCATION AND HUMAN RESOURCES

8           For additional expenses in carrying out science and  
9 engineering education and human resources programs and  
10 activities pursuant to the National Science Foundation  
11 Act of 1950, as amended (42 U.S.C. 1861–1875),  
12 \$50,000,000, to remain available until September 30,  
13 2009.

14           GENERAL PROVISION—THIS CHAPTER

15           SEC. 2201. (a) Section 3008(a) of the Digital Tele-  
16 vision Transition and Public Safety Act of 2005 is amend-  
17 ed—

18                   (1) by inserting “(1) IN GENERAL.—” before  
19 “The Assistant Secretary”; and

20                   (2) by adding at the end thereof the following:

21                   “(2) USE OF FUNDS.—As soon as practicable  
22 after the date of enactment of this Act, the Assist-  
23 ant Secretary shall make a determination, which the  
24 Assistant Secretary may adjust from time to time,  
25 with respect to whether the full amount provided  
26 under paragraph (1) will be needed for payments

1 under that paragraph. If the Assistant Secretary de-  
2 termines that the full amount will not be needed for  
3 payments authorized by paragraph (1), the Assistant  
4 Secretary may use the remaining amount for con-  
5 sumer education and technical assistance regarding  
6 the digital television transition and the availability of  
7 the digital-to-analog converter box program (in addi-  
8 tion to any amounts expended for such purpose  
9 under 3005(c)(2)(A) of this title), including  
10 partnering with, providing grants to, and contracting  
11 with non-profit organizations or public interest  
12 groups in achieving these efforts. If the Assistant  
13 Secretary initiates such an education program, the  
14 Assistant Secretary shall develop a plan to address  
15 the educational and technical assistance needs of  
16 vulnerable populations, such as senior citizens, indi-  
17 viduals residing in rural and remote areas, and mi-  
18 norities, including, where appropriate, education  
19 plans focusing on the need for analog pass-through  
20 digital converter boxes in areas served by low power  
21 or translator stations, and shall consider the speed  
22 with which these objectives can be accomplished to  
23 the greatest public benefit.”.

24 (b) Section 3009(a) of the Deficit Reduction Act of  
25 2005 (Public Law 109–171) is amended—



## 1       GENERAL PROVISIONS—THIS CHAPTER

2       SEC. 2301. (a) Subject to subsection (b), the Sec-  
3       retary of Energy shall continue the cooperative agreement  
4       numbered DE–FC 26–06NT42073, as in effect on the  
5       date of enactment of this Act, through March 30, 2009.

6       (b) During the period beginning on the date of enact-  
7       ment of this Act and ending on March 30, 2009—

8               (1) the agreement described in subsection (a)  
9               may not be terminated except by the mutual consent  
10              of the parties to the agreement; and

11             (2) funds may be expended under the agree-  
12             ment only to complete and provide information and  
13             documentation to the Department of Energy.

14       SEC. 2302. INCENTIVES FOR ADDITIONAL  
15       DOWNBLENDING OF HIGHLY ENRICHED URANIUM BY  
16       THE RUSSIAN FEDERATION. The USEC Privatization Act  
17       (42 U.S.C. 2297h et seq.) is amended—

18             (1) in section 3102, by striking “For purposes”  
19             and inserting “Except as provided in section 3112A,  
20             for purposes”;

21             (2) in section 3112(a), by striking “The Sec-  
22             retary” and inserting “Except as provided in section  
23             3112A(d), the Secretary”; and

24             (3) by inserting after section 3112 the fol-  
25             lowing:

1 **“SEC. 3112A. INCENTIVES FOR ADDITIONAL**  
2 **DOWNBLENDING OF HIGHLY ENRICHED URA-**  
3 **NIUM BY THE RUSSIAN FEDERATION.**

4 “(a) DEFINITIONS.—In this section:

5 “(1) COMPLETION OF THE RUSSIAN HEU  
6 AGREEMENT.—The term ‘completion of the Russian  
7 HEU Agreement’ means the importation into the  
8 United States from the Russian Federation pursu-  
9 ant to the Russian HEU Agreement of uranium de-  
10 rived from the downblending of not less than 500  
11 metric tons of highly enriched uranium of weapons  
12 origin.

13 “(2) DOWNBLENDING.—The term  
14 ‘downblending’ means processing highly enriched  
15 uranium into a uranium product in any form in  
16 which the uranium contains less than 20 percent  
17 uranium-235.

18 “(3) HIGHLY ENRICHED URANIUM.—The term  
19 ‘highly enriched uranium’ has the meaning given  
20 that term in section 3102(4).

21 “(4) HIGHLY ENRICHED URANIUM OF WEAPONS  
22 ORIGIN.—The term ‘highly enriched uranium of  
23 weapons origin’ means highly enriched uranium  
24 that—

25 “(A) contains 90 percent or more uranium-  
26 235; and

1                   “(B) is verified by the Secretary of Energy  
2                   to be of weapons origin.

3                   “(5) LOW-ENRICHED URANIUM.—The term  
4                   ‘low-enriched uranium’ means a uranium product in  
5                   any form, including uranium hexafluoride (UF<sub>6</sub>) and  
6                   uranium oxide (UO<sub>2</sub>), in which the uranium contains  
7                   less than 20 percent uranium-235, without regard to  
8                   whether the uranium is incorporated into fuel rods  
9                   or complete fuel assemblies.

10                  “(6) RUSSIAN HEU AGREEMENT.—The term  
11                  ‘Russian HEU Agreement’ has the meaning given  
12                  that term in section 3102(11).

13                  “(7) URANIUM-235.—The term ‘uranium-235’  
14                  means the isotope <sup>235</sup>U.

15                  “(b) STATEMENT OF POLICY.—It is the policy of the  
16 United States to support the continued downblending of  
17 highly enriched uranium of weapons origin in the Russian  
18 Federation in order to protect the essential security inter-  
19 ests of the United States with respect to the nonprolifera-  
20 tion of nuclear weapons.

21                  “(c) PROMOTION OF DOWNBLENDING OF RUSSIAN  
22 HIGHLY ENRICHED URANIUM.—

23                  “(1) INCENTIVES FOR THE COMPLETION OF  
24 THE RUSSIAN HEU AGREEMENT.—Prior to the com-  
25 pletion of the Russian HEU Agreement, the impor-

1 tation into the United States of low-enriched ura-  
2 nium, including low-enriched uranium obtained  
3 under contracts for separative work units, that is  
4 produced in the Russian Federation and is not im-  
5 ported pursuant to the Russian HEU Agreement  
6 may not exceed the following amounts:

7 “(A) In each of the calendar years 2008  
8 and 2009, not more than 22,500 kilograms.

9 “(B) In each of the calendar years 2010  
10 and 2011, not more than 45,000 kilograms.

11 “(C) In calendar year 2012 and each cal-  
12 endar year thereafter through the calendar year  
13 of the completion of the Russian HEU Agree-  
14 ment, not more than 67,500 kilograms.

15 “(2) INCENTIVES TO CONTINUE  
16 DOWNBLENDING RUSSIAN HIGHLY ENRICHED URA-  
17 NIUM AFTER THE COMPLETION OF THE RUSSIAN  
18 HEU AGREEMENT.—

19 “(A) IN GENERAL.—In each calendar year  
20 beginning after the calendar year of the comple-  
21 tion of the Russian HEU Agreement and before  
22 the termination date described in paragraph  
23 (8), the importation into the United States of  
24 low-enriched uranium, including low-enriched  
25 uranium obtained under contracts for separa-

1           tive work units, that is produced in the Russian  
2           Federation, whether or not such low-enriched  
3           uranium is derived from highly enriched ura-  
4           nium of weapons origin, may not exceed  
5           400,000 kilograms.

6           “(B) ADDITIONAL IMPORTS.—

7           “(i) IN GENERAL.—In addition to the  
8           amount authorized to be imported under  
9           subparagraph (A) and except as provided  
10          in clause (ii), 20 kilograms of low-enriched  
11          uranium, whether or not such low-enriched  
12          uranium is derived from highly enriched  
13          uranium of weapons origin, may be im-  
14          ported for every 3 kilograms of Russian  
15          highly enriched uranium of weapons origin  
16          that was downblended in the preceding cal-  
17          endar year, subject to the verification of  
18          the Secretary of Energy under paragraph  
19          (10).

20          “(ii) MAXIMUM ANNUAL IMPORTS.—

21          Not more than 200,000 kilograms of low-  
22          enriched uranium may be imported in a  
23          calendar year under clause (i).

24          “(3) EXCEPTION WITH RESPECT TO INITIAL  
25          CORES.—The import limitations described in para-

1 graphs (1) and (2) shall not apply to low-enriched  
2 uranium produced in the Russian Federation that is  
3 imported into the United States for use in the initial  
4 core of a new nuclear reactor.

5 “(4) ANNUAL ADJUSTMENT.—

6 “(A) IN GENERAL.—Beginning in the sec-  
7 ond calendar year after the calendar year of the  
8 completion of the Russian HEU Agreement, the  
9 Secretary of Energy shall increase or decrease  
10 the amount of low-enriched uranium that may  
11 be imported in a calendar year under paragraph  
12 (2) (including the amount of low-enriched ura-  
13 nium that may be imported for each kilogram  
14 of highly enriched uranium downblended under  
15 paragraph (2)(B)(i)) by a percentage equal to  
16 the percentage increase or decrease, as the case  
17 may be, in the average amount of uranium  
18 loaded into nuclear power reactors in the  
19 United States in the most recent 3-calendar-  
20 year period for which data are available, as re-  
21 ported by the Energy Information Administra-  
22 tion of the Department of Energy, compared to  
23 the average amount of uranium loaded into  
24 such reactors during the 3-calendar-year period

1 beginning on January 1, 2011, as reported by  
2 the Energy Information Administration.

3 “(B) PUBLICATION OF ADJUSTMENTS.—As  
4 soon as practicable, but not later than July 31  
5 of each calendar year, the Secretary of Energy  
6 shall publish in the Federal Register the  
7 amount of low-enriched uranium that may be  
8 imported in the current calendar year after the  
9 adjustment under subparagraph (A).

10 “(5) AUTHORITY FOR ADDITIONAL ADJUST-  
11 MENT.—In addition to the annual adjustment under  
12 paragraph (4), the Secretary of Commerce may ad-  
13 just the import limitations under paragraph (2)(A)  
14 for a calendar year if the Secretary—

15 “(A) in consultation with the Secretary of  
16 Energy, determines that the available supply of  
17 low-enriched uranium from the Russian Federa-  
18 tion and the available stockpiles of uranium of  
19 the Department of Energy are insufficient to  
20 meet demand in the United States in the fol-  
21 lowing calendar year; and

22 “(B) notifies Congress of the adjustment  
23 not less than 45 days before making the adjust-  
24 ment.

1           “(6) EQUIVALENT QUANTITIES OF LOW-EN-  
2           RICHED URANIUM IMPORTS.—

3           “(A) IN GENERAL.—The import limita-  
4           tions described in paragraphs (1) and (2) are  
5           expressed in terms of uranium containing 4.4  
6           percent uranium-235 and a tails assay of 0.3  
7           percent.

8           “(B) ADJUSTMENT FOR OTHER URA-  
9           NIUM.—Imports of low-enriched uranium under  
10          paragraphs (1) and (2) shall count against the  
11          import limitations described in such paragraphs  
12          in amounts calculated as the quantity of low-en-  
13          riched uranium containing 4.4 percent ura-  
14          nium-235 necessary to equal the total amount  
15          of uranium-235 contained in such imports.

16          “(7) DOWNBLENDING OF OTHER HIGHLY EN-  
17          RICHED URANIUM.—

18          “(A) IN GENERAL.—The downblending of  
19          highly enriched uranium not of weapons origin  
20          may be counted for purposes of paragraph  
21          (2)(B) or (8)(B), subject to verification under  
22          paragraph (10), if the Secretary of Energy de-  
23          termines that the highly enriched uranium to be  
24          downblended poses a risk to the national secu-  
25          rity of the United States.

1           “(B) EQUIVALENT QUANTITIES OF HIGHLY  
2 ENRICHED URANIUM.—For purposes of deter-  
3 mining the additional low-enriched uranium im-  
4 ports allowed under paragraph (2)(B) and for  
5 purposes of paragraph (8)(B), highly enriched  
6 uranium not of weapons origin downblended  
7 pursuant to subparagraph (A) shall count as  
8 downblended highly enriched uranium of weap-  
9 ons origin in amounts calculated as the quan-  
10 tity of highly enriched uranium containing 90  
11 percent uranium-235 necessary to equal the  
12 total amount of uranium-235 contained in the  
13 highly enriched uranium not of weapons origin  
14 downblended pursuant to subparagraph (A).

15           “(8) TERMINATION OF IMPORT RESTRICTIONS  
16 AFTER DOWNBLENDING OF AN ADDITIONAL 300  
17 METRIC TONS OF HIGHLY ENRICHED URANIUM.—  
18 The provisions of this subsection shall terminate on  
19 the later of—

20           “(A) December 31, 2020; or

21           “(B) the date on which the Secretary of  
22 Energy certifies to Congress that, after the  
23 completion of the Russian HEU Agreement, not  
24 less than an additional 300 metric tons of Rus-

1           sian highly enriched uranium of weapons origin  
2           have been downblended.

3           “(9) SPECIAL RULE IF IMPORTATION UNDER  
4           RUSSIAN HEU AGREEMENT TERMINATES EARLY.—  
5           Notwithstanding any other provision of law, no low-  
6           enriched uranium produced in the Russian Federa-  
7           tion that is not derived from highly enriched ura-  
8           nium of weapons origin, including low-enriched ura-  
9           nium obtained under contracts for separative work  
10          units, may be imported into the United States if, be-  
11          fore the completion of the Russian HEU Agreement,  
12          the Secretary of Energy determines that the Russian  
13          Federation has taken deliberate action to disrupt or  
14          halt the importation into the United States of low-  
15          enriched uranium under the Russian HEU Agree-  
16          ment.

17          “(10) TECHNICAL VERIFICATIONS BY SEC-  
18          RETARY OF ENERGY.—

19                 “(A) IN GENERAL.—The Secretary of En-  
20                 ergy shall verify the origin, quantity, and ura-  
21                 nium-235 content of the highly enriched ura-  
22                 nium downblended for purposes of paragraphs  
23                 (2)(B), (7), and (8)(B).

24                 “(B) METHODS OF VERIFICATION.—In  
25                 conducting the verification required under sub-

1 paragraph (A), the Secretary of Energy shall  
2 employ the transparency measures provided for  
3 in the Russian HEU Agreement for monitoring  
4 the downblending of Russian highly enriched  
5 uranium of weapons origin and such other  
6 methods as the Secretary determines appro-  
7 priate.

8 “(11) ENFORCEMENT OF IMPORT LIMITA-  
9 TIONS.—The Secretary of Commerce shall be re-  
10 sponsible for enforcing the import limitations im-  
11 posed under this subsection and shall enforce such  
12 import limitations in a manner that imposes a mini-  
13 mal burden on the commercial nuclear industry.

14 “(12) EFFECT ON OTHER AGREEMENTS.—

15 “(A) RUSSIAN HEU AGREEMENT.—Noth-  
16 ing in this section shall be construed to modify  
17 the terms of the Russian HEU Agreement, in-  
18 cluding the provisions of the Agreement relating  
19 to the amount of low-enriched uranium that  
20 may be imported into the United States.

21 “(B) OTHER AGREEMENTS.—If a provision  
22 of any agreement between the United States  
23 and the Russian Federation, other than the  
24 Russian HEU Agreement, relating to the im-  
25 portation of low-enriched uranium into the

1 United States conflicts with a provision of this  
 2 section, the provision of this section shall super-  
 3 sede the provision of the agreement to the ex-  
 4 tent of the conflict.

5 “(d) DOWNBLENDING OF HIGHLY ENRICHED URA-  
 6 NIUM IN THE UNITED STATES.—The Secretary of Energy  
 7 may sell uranium in the jurisdiction of the Secretary, in-  
 8 cluding downblended highly enriched uranium, at fair  
 9 market value to a licensed operator of a nuclear reactor  
 10 in the United States—

11 “(1) in the event of a disruption in the nuclear  
 12 fuel supply in the United States; or

13 “(2) after a determination of the Secretary  
 14 under subsection (c)(9) that the Russian Federation  
 15 has taken deliberate action to disrupt or halt the im-  
 16 portation into the United States of low-enriched ura-  
 17 nium under the Russian HEU Agreement.”.

#### 18 CHAPTER 4

#### 19 GENERAL PROVISIONS—THIS CHAPTER

20 SEC. 2401. VETERANS BUSINESS RESOURCE CEN-  
 21 TERS. There are appropriated, out of any money in the  
 22 Treasury not otherwise appropriated, for the fiscal year  
 23 ending September 30, 2008, \$600,000 for the “Salaries  
 24 and Expenses” account of the Small Business Administra-  
 25 tion, for grants in the amount of \$200,000 to veterans

1 business resource centers that received grants from the  
2 National Veterans Business Development Corporation in  
3 fiscal years 2006 and 2007.

4       SEC. 2402. (A) IN GENERAL.—Section 604(a)(5) of  
5 title 28, United States Code, is amended by inserting after  
6 “hold office during good behavior,” the following: “bank-  
7 ruptcy judges appointed under chapter 6 of title 28; terri-  
8 torial district court judges appointed under section 24 of  
9 the Organic Act of Guam (48 U.S.C. 1424b), section 1(b)  
10 of the Act of November 8, 1977 (48 U.S.C. 1821), or sec-  
11 tion 24(a) of the Revised Organic Act of the Virgin Islands  
12 (48 U.S.C. 1614(a)); bankruptcy judges retired under sec-  
13 tion 377 of title 28; and judges retired under section 373  
14 of title 28,”.

15       (b) CONSTRUCTION.—For purposes of construing  
16 and applying chapter 87 of title 5, United States Code,  
17 including any adjustment of insurance rates by regulation  
18 or otherwise, the following categories of judicial officers  
19 shall be deemed to be judges of the United States as de-  
20 scribed under section 8701 of title 5, United States Code:

21               (1) Bankruptcy judges appointed under chapter  
22               6 of title 28, United States Code.

23               (2) Territorial district court judges appointed  
24               under section 24 of the Organic Act of Guam (48  
25               U.S.C. 1424b), section 1(b) of the Act of November

1 8, 1977 (48 U.S.C. 1821), or section 24(a) of the  
 2 Revised Organic Act of the Virgin Islands (48  
 3 U.S.C. 1614(a)).

4 (3) Bankruptcy judges retired under section  
 5 377 of title 28, United States Code.

6 (4) Judges retired under section 373 of title 28,  
 7 United States Code.

8 (c) EFFECTIVE DATE.—Subsection (b) and the  
 9 amendment made by subsection (a) shall apply with re-  
 10 spect to any payment made on or after the first day of  
 11 the first applicable pay period beginning on or after the  
 12 date of enactment of Public Law No. 110–177.

13 SEC. 2403. Life Insurance for Tax Court Judges Age  
 14 65 or Over. (a) IN GENERAL.—Section 7472 of the Inter-  
 15 nal Revenue Code of 1986 is amended by inserting after  
 16 the word “imposed” where it appears in the second sen-  
 17 tence the following phrase: “after April 24, 1999, that is  
 18 incurred”.

19 (b) EFFECTIVE DATE.—This amendment shall take  
 20 effect as if included in the amendment made by section  
 21 852 of the Pension Protection Act of 2006.

## 22 CHAPTER 5

### 23 GENERAL PROVISION—THIS CHAPTER

24 SEC. 2501. SECURE RURAL SCHOOLS ACT AMEND-  
 25 MENT. (a) For fiscal year 2008, payments shall be made

1 from any revenues, fees, penalties, or miscellaneous re-  
2 ceipts described in sections 102(b)(3) and 103(b)(2) of the  
3 Secure Rural Schools and Community Self-Determination  
4 Act of 2000 (Public Law 106–393; 16 U.S.C. 500 note),  
5 not to exceed \$100,000,000, and the payments shall be  
6 made, to the maximum extent practicable, in the same  
7 amounts, for the same purposes, and in the same manner  
8 as were made to States and counties in 2006 under that  
9 Act.

10 (b) There is appropriated \$400,000,000, to remain  
11 available until December 31, 2008, to be used to cover  
12 any shortfall for payments made under this section from  
13 funds not otherwise appropriated.

14 (c) Titles II and III of Public Law 106–393 are  
15 amended, effective September 30, 2006, by striking  
16 “2007” and “2008” each place they appear and inserting  
17 “2008” and “2009”, respectively.

## 18 CHAPTER 6

### 19 DEPARTMENT OF LABOR

#### 20 EMPLOYMENT AND TRAINING ADMINISTRATION

#### 21 STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT

#### 22 SERVICE OPERATIONS

23 For an additional amount for “State Unemployment  
24 Insurance and Employment Service Operations” for  
25 grants to the States for the administration of State unem-

1 ployment insurance, \$110,000,000, which may be ex-  
2 pended from the Employment Security Administration Ac-  
3 count in the Unemployment Trust Fund, to be used for  
4 unemployment insurance workloads experienced by the  
5 States through September 30, 2008, which shall be avail-  
6 able for Federal obligation through December 31, 2008.

7 DEPARTMENT OF HEALTH AND HUMAN

8 SERVICES

9 CENTERS FOR DISEASE CONTROL AND PREVENTION

10 DISEASE CONTROL, RESEARCH, AND TRAINING

11 For an additional amount for “Disease Control, Re-  
12 search, and Training”, \$26,000,000, for the prevention of  
13 and response to medical errors including research, edu-  
14 cation and outreach activities; of which no less than  
15 \$5,000,000 shall be for responding to outbreaks of com-  
16 municable diseases related to the re-use of syringes in out-  
17 patient clinics, including reimbursement of local health de-  
18 partments for testing and genetic sequencing of persons  
19 potentially exposed.

20 NATIONAL INSTITUTES OF HEALTH

21 OFFICE OF THE DIRECTOR

22 (INCLUDING TRANSFER OF FUNDS)

23 For an additional amount for “Office of the Director,  
24 National Institutes of Health”, \$400,000,000, which shall  
25 be used to support additional scientific research in the In-  
26 stitutes and Centers of the National Institutes of Health:

1 *Provided*, That these funds are to be transferred to the  
2 Institutes and Centers on a pro-rata basis: *Provided fur-*  
3 *ther*, That funds transferred shall be merged with and be  
4 available for the same purposes and for the same time pe-  
5 riod as the appropriation or fund to which transferred:  
6 *Provided further*, That this transfer authority is in addi-  
7 tion to any other transfer authority available to the Na-  
8 tional Institutes of Health: *Provided further*, That none  
9 of these funds are to be transferred to the Buildings and  
10 Facilities appropriation, the Center for Scientific Review,  
11 the Center for Information Technology, the Clinical Cen-  
12 ter, the Global Fund for HIV/AIDS, Tuberculosis and Ma-  
13 laria, and the Office of the Director except for the NIH  
14 Common Fund within the Office of the Director, which  
15 shall receive its pro-rata share of the increase.

16       GENERAL PROVISIONS—THIS CHAPTER

17       SEC. 2601. (a) In addition to amounts otherwise  
18 made available for fiscal year 2008, there are appro-  
19 priated, out of any money in the Treasury not otherwise  
20 appropriated—

21               (1) \$500,000,000 for fiscal year 2008, for mak-  
22 ing payments under subsections (a) through (d) of  
23 section 2604 of the Low-Income Home Energy As-  
24 sistance Act of 1981 (42 U.S.C. 8623); and

1           (2) \$500,000,000 for fiscal year 2008, for mak-  
2           ing allotments under section 2604(e) of the Low-In-  
3           come Home Energy Assistance Act of 1981 (42  
4           U.S.C. 8623(e)) that are made in such a manner as  
5           to ensure that each State's allotment percentage is  
6           the percentage the State would receive of funds al-  
7           lotted under section 2604(a) of such Act (42 U.S.C.  
8           8623(a)), if the total amount appropriated for fiscal  
9           year 2008 and available to carry out such section  
10          2604(a) had been less than \$1,975,000,000.

11          (b) Funds appropriated under subsection (a)(2), and  
12          funds appropriated (but not obligated) prior to the date  
13          of enactment of this Act for making payments under sec-  
14          tion 2604(e) of such Act (42 U.S.C. 8623(e)), shall be  
15          released to States not later than 30 days after the date  
16          of enactment of this Act.

17          SEC. 2602. REPORT ON THE IMPACT OF PAST AND  
18          FUTURE MINIMUM WAGE INCREASES. (a) IN GENERAL.—  
19          Section 8104 of the U.S. Troop Readiness, Veterans'  
20          Care, Katrina Recovery, and Iraq Accountability Appro-  
21          priations Act, 2007 (Public Law 110–28; 121 Stat. 189)  
22          is amended to read as follows:

1 **“SEC. 8104. REPORT ON THE IMPACT OF PAST AND FUTURE**  
2 **MINIMUM WAGE INCREASES.**

3 “(a) STUDY.—Beginning on the date that is 60 days  
4 after the date of enactment of this Act, and every year  
5 thereafter until the minimum wage in the respective terri-  
6 tory is \$7.25 per hour, the Government Accountability Of-  
7 fice shall conduct a study to—

8 “(1) assess the impact of the minimum wage  
9 increases that occurred in American Samoa and the  
10 Commonwealth of the Northern Mariana Islands in  
11 2007 and 2008, as required under Public Law 110–  
12 28, on the rates of employment and the living stand-  
13 ards of workers, with full consideration of the other  
14 factors that impact rates of employment and the liv-  
15 ing standards of workers such as inflation in the  
16 cost of food, energy, and other commodities; and

17 “(2) estimate the impact of any further wage  
18 increases on rates of employment and the living  
19 standards of workers in American Samoa and the  
20 Commonwealth of the Northern Mariana Islands,  
21 with full consideration of the other factors that may  
22 impact the rates of employment and the living  
23 standards of workers, including assessing how the  
24 profitability of major private sector firms may be  
25 impacted by wage increases in comparison to other

1 factors such as energy costs and the value of tax  
2 benefits.

3 “(b) REPORT.—No earlier than March 15, 2009, and  
4 not later than April 15, 2009, the Government Account-  
5 ability Office shall transmit its first report to Congress  
6 concerning the findings of the study required under sub-  
7 section (a). The Government Accountability Office shall  
8 transmit any subsequent reports to Congress concerning  
9 the findings of a study required by subsection (a) between  
10 March 15 and April 15 of each year.

11 “(c) ECONOMIC INFORMATION.—To provide suffi-  
12 cient economic data for the conduct of the study under  
13 subsection (a)—

14 “(1) the Department of Labor shall include and  
15 separately report on American Samoa and the Com-  
16 monwealth of the Northern Mariana Islands in its  
17 household surveys and establishment surveys;

18 “(2) the Bureau of Economic Analysis of the  
19 Department of Commerce shall include and sepa-  
20 rately report on American Samoa and the Common-  
21 wealth of the Northern Mariana Islands in its gross  
22 domestic product data; and

23 “(3) the Bureau of the Census of the Depart-  
24 ment of Commerce shall include and separately re-  
25 port on American Samoa and the Commonwealth of

1 the Northern Mariana Islands in its population esti-  
2 mates and demographic profiles from the American  
3 Community Survey,  
4 with the same regularity and to the same extent as the  
5 Department or each Bureau collects and reports such data  
6 for the 50 States. In the event that the inclusion of Amer-  
7 ican Samoa and the Commonwealth of the Northern Mar-  
8 iana Islands in such surveys and data compilations re-  
9 quires time to structure and implement, the Department  
10 of Labor, the Bureau of Economic Analysis, and the Bu-  
11 reau of the Census (as the case may be) shall in the in-  
12 terim annually report the best available data that can fea-  
13 sibly be secured with respect to such territories. Such in-  
14 terim reports shall describe the steps the Department or  
15 the respective Bureau will take to improve future data col-  
16 lection in the territories to achieve comparability with the  
17 data collected in the United States. The Department of  
18 Labor, the Bureau of Economic Analysis, and the Bureau  
19 of the Census, together with the Department of the Inte-  
20 rior, shall coordinate their efforts to achieve such improve-  
21 ments.”.

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

1                                   CHAPTER 7  
2                                   RELATED AGENCY  
3            AMERICAN BATTLE MONUMENTS COMMISSION  
4            FOREIGN CURRENCY FLUCTUATIONS ACCOUNT

5            For an additional amount for “Foreign Currency  
6 Fluctuations Account”, \$10,000,000, to remain available  
7 until expended, for purposes authorized by section 2109  
8 of title 36, United States Code.

9                                   CHAPTER 8  
10           GENERAL PROVISIONS—THIS CHAPTER

11           SEC. 2801. Until January 1, 2009, an aircraft used  
12 by an air carrier in the operation specified in section  
13 47528(e)(3) of title 49, United States Code, as of April  
14 1, 2008, may continue to be operated under the provisions  
15 of that section by an air carrier that purchases or leases  
16 that aircraft after April 1, 2008, for conduct of the same  
17 operation. Operation of that aircraft under section  
18 47528(e)(4) is authorized for the same time period.

19           SEC. 2802. Title 49, United States Code, is amend-  
20 ed—

21                   (1) by striking “August 31, 2008,” in section  
22                   44302(f)(1) and inserting “August 31, 2009,”;

23                   (2) by striking “December 31, 2008,” in sec-  
24                   tion 44302(f)(1) and inserting “December 31,  
25                   2009,”; and



1 Pandemic Influenza Act, 2006 (Public Law 109–148; 119  
2 Stat. 2746), the Secretary may use an amount not to ex-  
3 ceed \$1,000,000 of remaining unobligated funds for the  
4 cost of loan modifications to rural electric loans made or  
5 guaranteed under the Rural Electrification Act of 1936,  
6 to respond to damage caused by any weather related  
7 events since Hurricane Katrina, to remain available until  
8 expended: *Provided*, That \$1,000,000 of the remaining un-  
9 obligated funds under such paragraph are rescinded.

## 10 CHAPTER 2

### 11 DEPARTMENT OF COMMERCE

#### 12 ECONOMIC DEVELOPMENT ADMINISTRATION

##### 13 ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

14 For an additional amount for economic development  
15 assistance as provided by section 3082(a) of the Water  
16 Resources Development Act of 2007 (Public Law 110–  
17 114), \$75,000,000, to remain available until September  
18 30, 2009.

#### 19 NATIONAL OCEANIC AND ATMOSPHERIC

##### 20 ADMINISTRATION

##### 21 OPERATIONS, RESEARCH, AND FACILITIES

22 For an additional amount for “Operations, Research,  
23 and Facilities” for necessary expenses related to economic  
24 impacts associated with commercial fishery failures, fish-  
25 ery resource disasters, and regulations on commercial fish-

1 ing industries, \$75,000,000, to remain available until Sep-  
2 tember 30, 2009.

3 DEPARTMENT OF JUSTICE

4 OFFICE OF JUSTICE PROGRAMS

5 STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE

6 For an additional amount for “State and Local Law  
7 Enforcement Assistance”, for discretionary grants author-  
8 ized by subpart 2 of part E, of title I of the Omnibus  
9 Crime Control and Safe Streets Act of 1968 as in effect  
10 on September 30, 2006, notwithstanding the provisions of  
11 section 511 of said Act, \$75,000,000, to remain available  
12 until September 30, 2009: *Provided*, That the amount  
13 made available under this heading shall be for local law  
14 enforcement initiatives in the Gulf Coast region related to  
15 the aftermath of Hurricane Katrina.

16 GENERAL PROVISION—THIS CHAPTER

17 SEC. 3201. GULF OF MEXICO DESIGNATIONS. (a)

18 Notwithstanding any other provision of law, no funds  
19 made available under this Act or any other Act for fiscal  
20 year 2008 or 2009 may be used to establish a national  
21 monument or otherwise convey protected status to any  
22 area in the marine environment of the Exclusive Economic  
23 Zone of the United States under the Act of June 8, 1906  
24 (16 U.S.C. 431 et seq.).

1 (b) Not later than 180 days after the date of enact-  
2 ment of this Act, the Secretary of Commerce may, as ap-  
3 plicable, and in compliance with all requirements under  
4 title III of the National Marine Sanctuaries Act (16  
5 U.S.C. 1431 et seq.) (including the procedures for des-  
6 ignation and implementation under section 304 of that Act  
7 (16 U.S.C. 1434)) with respect to any proposed protected  
8 area, submit to Congress a study of the proposed pro-  
9 tected area.

10 CHAPTER 3

11 DEPARTMENT OF DEFENSE—CIVIL

12 DEPARTMENT OF THE ARMY

13 CORPS OF ENGINEERS—CIVIL

14 CONSTRUCTION

15 For an additional amount for “Construction” for nec-  
16 essary expenses related to the consequences of Hurricane  
17 Katrina and other hurricanes of the 2005 season, and for  
18 recovery from other natural disasters \$5,033,345,000, to  
19 remain available until expended: *Provided*, That the Sec-  
20 retary of the Army is directed to use \$4,362,000,000 of  
21 the funds appropriated under this heading to modify au-  
22 thorized projects in southeast Louisiana to provide hurri-  
23 cane and storm damage reduction and flood damage re-  
24 duction in the greater New Orleans and surrounding areas  
25 to provide the levels of protection necessary to achieve the

1 certification required for participation in the National  
2 Flood Insurance Program under the base flood elevations  
3 current at the time of this construction; \$1,657,000,000  
4 shall be used for the Lake Pontchartrain and Vicinity;  
5 \$1,415,000,000 shall be used for the West Bank and Vi-  
6 cinity project; and \$1,290,000,000 shall be for elements  
7 of the Southeast Louisiana Urban Drainage project, that  
8 are within the geographic perimeter of the West Bank and  
9 Vicinity and Lake Pontchartrain and Vicinity projects to  
10 provide for interior drainage of runoff from rainfall with  
11 a 10 percent annual exceedance probability: *Provided fur-*  
12 *ther*, That none of this \$4,362,000,000 shall become avail-  
13 able for obligation until October 1, 2008: *Provided further*,  
14 That non-Federal cost allocations for these projects shall  
15 be consistent with the cost-sharing provisions under which  
16 the projects were originally constructed: *Provided further*,  
17 That the \$1,315,000,000 non-Federal cost share for these  
18 projects shall be repaid in accordance with provisions of  
19 section 103(k) of Public Law 99–662 over a period of 30  
20 years: *Provided further*, That the expenditure of funds as  
21 provided above may be made without regard to individual  
22 amounts or purposes except that any reallocation of funds  
23 that are necessary to accomplish the established goals are  
24 authorized, subject to the approval of the House and Sen-  
25 ate Committees on Appropriations: *Provided further*, That

1 the Secretary of the Army is directed to use \$604,745,000  
2 of the funds appropriated under this heading to provide  
3 hurricane and storm damage reduction, flood damage re-  
4 duction and ecosystem restoration along the Gulf Coast  
5 of Mississippi and surrounding areas generally as de-  
6 scribed in the Mobile District Engineer's Mississippi  
7 Coastal Improvements Program Comprehensive Plan Re-  
8 port; \$173,615,000 shall be used for ecosystem restoration  
9 projects; \$4,550,000 shall be used for the Moss Point Mu-  
10 nicipal Relocation project; \$5,000,000 shall be used for  
11 the Waveland Floodproofing project; \$150,000 shall be  
12 used for the Mississippi Sound Sub Aquatic Vegetation  
13 project; \$15,430,000 shall be used for the Coast-wide  
14 Dune Restoration project; \$397,000,000 shall be used for  
15 the Homeowners Assistance and Relocation project; and  
16 \$9,000,000 shall be used for the Forrest Heights Hurri-  
17 cane and Storm Damage Reduction project: *Provided fur-*  
18 *ther*, That none of this \$604,745,000 shall become avail-  
19 able for obligation until October 1, 2008: *Provided further*,  
20 That these projects shall be initiated only after non-Fed-  
21 eral interests have entered into binding agreements with  
22 the Secretary requiring the non-Federal interests to pay  
23 100 percent of the operation, maintenance, repair, replace-  
24 ment, and rehabilitation costs of the project and to hold  
25 and save the United States free from damages due to the

1 construction or operation and maintenance of the project,  
2 except for damages due to the fault or negligence of the  
3 United States or its contractors: *Provided further*, That  
4 the \$211,661,000 non-Federal cost share for these  
5 projects shall be repaid in accordance with the provisions  
6 of section 103(k) of Public Law 99–662 over a period of  
7 30 years: *Provided further*, That the expenditure of funds  
8 as provided above may be made without regard to indi-  
9 vidual amounts or purposes except that any reallocation  
10 of funds that are necessary to accomplish the established  
11 goals are authorized, subject to the approval of the House  
12 and Senate Committees on Appropriations: *Provided fur-*  
13 *ther*, That the Secretary of the Army is directed to use  
14 \$66,600,000 of the funds appropriated under this heading  
15 to address emergency situations at Corps of Engineers  
16 projects and rehabilitate and repair damages to Corps  
17 projects caused by recent natural disasters: *Provided fur-*  
18 *ther*, That the Chief of Engineers, acting through the As-  
19 sistant Secretary of the Army for Civil Works, shall pro-  
20 vide a monthly report to the House and Senate Commit-  
21 tees on Appropriations detailing the allocation and obliga-  
22 tion of these funds, beginning not later than 60 days after  
23 enactment of this Act.

24 MISSISSIPPI RIVER AND TRIBUTARIES

25 For an additional amount for “Mississippi River and  
26 Tributaries” for recovery from natural disasters,

1 \$17,700,000, to remain available until expended to repair  
2 damages to Federal projects caused by recent natural dis-  
3 asters.

4 OPERATIONS AND MAINTENANCE

5 For an additional amount for “Operations and Main-  
6 tenance” to dredge navigation channels and repair other  
7 Corps projects related to natural disasters, \$338,800,000,  
8 to remain available until expended: *Provided*, That the  
9 Chief of Engineers, acting through the Assistant Secretary  
10 of the Army for Civil Works, shall provide a monthly re-  
11 port to the House and Senate Committees on Appropria-  
12 tions detailing the allocation and obligation of these funds,  
13 beginning not later than 60 days after enactment of this  
14 Act.

15 FLOOD CONTROL AND COASTAL EMERGENCIES

16 For an additional amount for “Flood Control and  
17 Coastal Emergencies”, as authorized by section 5 of the  
18 Act of August 18, 1941 (33 U.S.C. 701n), for necessary  
19 expenses relating to the consequences of Hurricane  
20 Katrina and other hurricanes, and for recovery from other  
21 natural disasters, \$3,368,400,000, to remain available  
22 until expended: *Provided*, That the Secretary of the Army  
23 is directed to use \$2,926,000,000 of the funds appro-  
24 priated under this heading to modify, at full Federal ex-  
25 pense, authorized projects in southeast Louisiana to pro-  
26 vide hurricane and storm damage reduction and flood

1 damage reduction in the greater New Orleans and sur-  
2 rounding areas; \$704,000,000 shall be used to modify the  
3 17th Street, Orleans Avenue, and London Avenue drain-  
4 age canals and install pumps and closure structures at or  
5 near the lakefront; \$90,000,000 shall be used for storm-  
6 proofing interior pump stations to ensure the operability  
7 of the stations during hurricanes, storms, and high water  
8 events; \$459,000,000 shall be used for armoring critical  
9 elements of the New Orleans hurricane and storm damage  
10 reduction system; \$53,000,000 shall be used to improve  
11 protection at the Inner Harbor Navigation Canal;  
12 \$456,000,000 shall be used to replace or modify certain  
13 non-Federal levees in Plaquemines Parish to incorporate  
14 the levees into the existing New Orleans to Venice hurri-  
15 cane protection project; \$412,000,000 shall be used for  
16 reinforcing or replacing flood walls, as necessary, in the  
17 existing Lake Pontchartrain and Vicinity project and the  
18 existing West Bank and Vicinity project to improve the  
19 performance of the systems; \$393,000,000 shall be used  
20 for repair and restoration of authorized protections and  
21 floodwalls; \$359,000,000 shall be to complete the author-  
22 ized protection for the Lake Ponchartrain and Vicinity  
23 Project and for the West Bank and Vicinity Project: *Pro-*  
24 *vided further*, That none of this \$2,926,000,000 shall be-  
25 come available for obligation until October 1, 2008: *Pro-*

1 *vided further*, That any project using funds appropriated  
2 under this heading shall be initiated only after non-Fed-  
3 eral interests have entered into binding agreements with  
4 the Secretary requiring the non-Federal interests to pay  
5 100 percent of the operation, maintenance, repair, replace-  
6 ment, and rehabilitation costs of the project and to hold  
7 and save the United States free from damages due to the  
8 construction or operation and maintenance of the project,  
9 except for damages due to the fault or negligence of the  
10 United States or its contractors: *Provided further*, That  
11 the Secretary of the Army, within available funds, is di-  
12 rected to continue the NEPA alternative evaluation of all  
13 options with particular attention to Options 1, 2 and 2a  
14 of the report to Congress, dated August 30, 2007, pro-  
15 vided in response to the requirements of chapter 3, section  
16 4303 of Public Law 110–28, and within 90 days of enact-  
17 ment of this Act provide the House and Senate Commit-  
18 tees on Appropriations cost estimates to implement Op-  
19 tions 1, 2 and 2a of the above cited report: *Provided fur-*  
20 *ther*, That the expenditure of funds as provided above may  
21 be made without regard to individual amounts or purposes  
22 except that any reallocation of funds that are necessary  
23 to accomplish the established goals are authorized, subject  
24 to the approval of the House and Senate Committees on  
25 Appropriations: *Provided further*, That \$348,000,000 of

1 the amount provided under this heading shall be used for  
2 barrier island restoration and ecosystem restoration to re-  
3 store historic levels of storm damage reduction to the Mis-  
4 sissippi Gulf Coast: *Provided further*, That none of this  
5 \$348,000,000 shall become available for obligation until  
6 October 1, 2008: *Provided further*, That this work shall  
7 be carried out at full Federal expense: *Provided further*,  
8 That the Secretary of the Army is directed to use  
9 \$94,400,000 of the funds appropriated under this heading  
10 to support emergency operations, to repair eligible projects  
11 nationwide, and for other activities in response to recent  
12 natural disasters: *Provided further*, That the Chief of En-  
13 gineers, acting through the Assistant Secretary of the  
14 Army for Civil Works, shall provide a monthly report to  
15 the House and Senate Committees on Appropriations de-  
16 tailing the allocation and obligation of these funds, begin-  
17 ning not later than 60 days after enactment of this Act.

18

## GENERAL EXPENSES

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

## CHAPTER 4

## GENERAL PROVISION—THIS CHAPTER

SEC. 3401. (a) EXTENSION OF PARTICIPATION TERM  
FOR VICTIMS OF HURRICANE KATRINA.—

(1) RETROACTIVITY.—If a small business concern, while participating in any program or activity under the authority of paragraph (10) of section 7(j) of the Small Business Act (15 U.S.C. 636(j)), was located in a parish or county described in paragraph (2) and was affected by Hurricane Katrina of 2005, the period during which that small business concern is permitted continuing participation and eligibility in such program or activity shall be extended for an additional 24 months.

(2) PARISHES AND COUNTIES COVERED.—Paragraph (1) applies to any parish in the State of Louisiana, or any county in the State of Mississippi or in the State of Alabama, that has been designated by the Administrator as a disaster area by reason of Hurricane Katrina of 2005 under disaster declaration 10176, 10177, 10178, 10179, 10180, or 10181.

(3) REVIEW AND COMPLIANCE.—The Administrator shall ensure that the eligibility for continuing participation by each small business concern that was participating in a program or activity covered by

1 paragraph (1) before the date of enactment of this  
2 Act is reviewed and brought into compliance with  
3 this subsection.

4 (b) DEFINITIONS.—In this section—

5 (1) the term “Administrator” means the Ad-  
6 ministrator of the Small Business Administration;  
7 and

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

## 11 CHAPTER 5

### 12 GENERAL PROVISIONS—THIS CHAPTER

13 SEC. 3501. Notwithstanding any other provision of  
14 law, and not later than 30 days after the date of submis-  
15 sion of a request for a single payment, the Federal Emer-  
16 gency Management Agency shall provide a single payment  
17 for any eligible costs under section 406 of the Robert T.  
18 Stafford Disaster Relief and Emergency Assistance Act  
19 for any police station, fire station, or criminal justice facil-  
20 ity that was damaged by Hurricane Katrina of 2005 or  
21 Hurricane Rita of 2005: *Provided*, That nothing in this  
22 section may be construed to alter the appeal or review  
23 process relating to assistance provided under section 406  
24 of the Robert T. Stafford Disaster Relief and Emergency  
25 Assistance Act: *Provided further*, That the Federal Emer-

1 gency Management Agency shall not reduce the amount  
2 of assistance provided under section 406(c)(1) of the Rob-  
3 ert T. Stafford Disaster Relief and Emergency Assistance  
4 Act for such facilities.

5       SEC. 3502. Until such time as the updating of flood  
6 insurance rate maps under section 19 of the Flood Mod-  
7 ernization Act of 2007 is completed (as determined by the  
8 district engineer) for all areas located in the St. Louis Dis-  
9 trict of the Mississippi Valley Division of the Corps of En-  
10 gineers, the Administrator of the Federal Emergency  
11 Management Agency shall not adjust the chargeable pre-  
12 mium rate for flood insurance under this section for any  
13 type or class of property located in an area in that District  
14 nor require the purchase of flood insurance for any type  
15 or class of property located in an area in that District  
16 not subject to such purchase requirement prior to the up-  
17 dating of such national flood insurance program rate map:  
18 *Provided*, That for purposes of this section, the term  
19 “area” does not include any area (or subdivision thereof)  
20 that has chosen not to participate in the flood insurance  
21 program under this section as of the date of enactment  
22 of this Act.



## 1 ENVIRONMENTAL PROTECTION AGENCY

## 2 STATE AND TRIBAL ASSISTANCE GRANTS

3 For an additional amount for “State and Tribal As-  
4 sistance Grants”, for expenses related to the consequences  
5 of Hurricane Katrina, \$5,000,000, to remain available  
6 until expended, for a grant to Cameron Parish, Louisiana,  
7 for construction of drinking water, wastewater and storm  
8 water infrastructure and for water quality protection: *Pro-*  
9 *vided*, That for purposes of this grant, the grantee shall  
10 contribute not less than 45 percent of the cost of the  
11 project unless the grantee is approved for a waiver by the  
12 Agency.

## 13 DEPARTMENT OF AGRICULTURE

## 14 FOREST SERVICE

## 15 WILDLAND FIRE MANAGEMENT

## 16 (INCLUDING TRANSFERS OF FUNDS)

17 For an additional amount for “Wildland Fire Man-  
18 agement”, \$325,000,000, to remain available until ex-  
19 pended, of which \$250,000,000 shall be available for  
20 emergency wildfire suppression, and of which \$75,000,000  
21 shall be available for rehabilitation and restoration of Fed-  
22 eral lands and may be transferred to other Forest Service  
23 accounts as necessary: *Provided*, That emergency wildfire  
24 suppression funds are also available for repayment to  
25 other appropriations accounts from which funds were  
26 transferred for wildfire suppression.

## 1           GENERAL PROVISION—THIS CHAPTER

2           SEC. 3601. Funds appropriated in section 132 of di-  
3 vision F, Public Law 110–161, shall not be subject to 49  
4 CFR Part 24 or Departmental policies issues pursuant to  
5 such regulations.

## 6   CHAPTER 7

## 7           DEPARTMENT OF HEALTH AND HUMAN

## 8   SERVICES

## 9           CENTERS FOR MEDICARE AND MEDICAID SERVICES

10          For grants to States, consistent with section  
11 6201(a)(4) of the Deficit Reduction Act of 2005, to make  
12 payments as defined by the Secretary in the methodology  
13 used for the Provider Stabilization grants to those Medi-  
14 care participating general acute care hospitals, as defined  
15 in section 1886(d) of the Social Security Act, and cur-  
16 rently operating in Jackson, Forrest, Hancock, and Har-  
17 rison Counties of Mississippi and Orleans and Jefferson  
18 Parishes of Louisiana which continue to experience severe  
19 financial exigencies and other economic losses attributable  
20 to Hurricane Katrina or its subsequent flooding, and are  
21 in need of supplemental funding to relieve the financial  
22 pressures these hospitals face resulting from increased  
23 wage rates in hiring and retaining staff in order to sta-  
24 bilize access to patient care, \$350,000,000, to be made  
25 available until September 30, 2010.



1                                   CHAPTER 9  
2                   DEPARTMENT OF TRANSPORTATION  
3                                   FEDERAL-AID HIGHWAYS  
4                                   EMERGENCY RELIEF PROGRAM

5           For an additional amount for the Emergency Relief  
6 Program as authorized under section 125 of title 23,  
7 United States Code, for eligible disasters occurring in fis-  
8 cal years 2005 to the present, \$451,126,383, to remain  
9 available until expended.

10                   DEPARTMENT OF HOUSING AND URBAN  
11                                   DEVELOPMENT  
12                                   PERMANENT SUPPORTIVE HOUSING

13           For the provision of permanent supportive housing  
14 units as identified in the plan of the Louisiana Recovery  
15 Authority and approved by the Secretary of Housing and  
16 Urban Development, \$73,000,000 to remain available  
17 until expended, of which not less than \$20,000,000 shall  
18 be for project-based vouchers under section 8(o)(13) of the  
19 United States Housing Act of 1937 (42 U.S.C.  
20 1437f(o)(13)), not less than \$50,000,000 shall be for  
21 grants under the Shelter Plus Care Program as authorized  
22 under subtitle F of title IV of the McKinney-Vento Home-  
23 less Assistance Act (42 U.S.C. 11403 et seq.), and not  
24 more than \$3,000,000 shall be for related administrative  
25 expenses of the State of Louisiana or its designee or des-

1 ignees: *Provided*, That the Secretary of Housing and  
2 Urban Development shall, upon request, make funds avail-  
3 able under this paragraph to the State of Louisiana or  
4 its designee or designees: *Provided further*, That notwith-  
5 standing any other provision of law, for the purpose of  
6 administering the amounts provided under this paragraph,  
7 the State of Louisiana or its designee or designees may  
8 act in all respects as a public housing agency as defined  
9 in section 3(b)(6) of the United States Housing Act of  
10 1937 (42 U.S.C. 1437a(b)(6)): *Provided further*, That  
11 subparagraphs (B) and (D) of section 8(o)(13) of the  
12 United States Housing Act of 1937 (42 U.S.C.  
13 1437f(o)(13)) shall not apply with respect to vouchers  
14 made available under this paragraph.

15                   PROJECT-BASED RENTAL ASSISTANCE

16           For an additional amount to areas impacted by Hur-  
17 ricane Katrina in the State of Mississippi for project-based  
18 vouchers under section 8(o)(13) of the United States  
19 Housing Act of 1937 (42 U.S.C. 1437f(o)13)),  
20 \$20,000,000, to remain available until expended.

21                   HOUSING TRANSITION ASSISTANCE

22           For an additional amount to the State of Louisiana  
23 for case management and housing transition services for  
24 families in areas impacted by Hurricanes Katrina and

1 Rita of 2005, \$3,000,000, to remain available until ex-  
2 pended.

3                   COMMUNITY DEVELOPMENT FUND

4           For an additional amount for the “Community devel-  
5 opment fund” for necessary expenses related to any un-  
6 compensated housing damage directly related to the con-  
7 sequences of Hurricane Katrina in the State of Alabama,  
8 \$50,000,000, to remain available until expended: *Pro-*  
9 *vided*, That prior to the obligation of funds the State shall  
10 submit a plan to the Secretary detailing the proposed use  
11 of all funds, including criteria for eligibility and how the  
12 use of these funds will address uncompensated housing  
13 damage: *Provided further*, That such funds may not be  
14 used for activities reimbursable by or for which funds are  
15 made available by the Federal Emergency Management  
16 Agency: *Provided further*, That the State may use up to  
17 5 percent of its allocation for administrative costs: *Pro-*  
18 *vided further*, That in administering the funds under this  
19 paragraph, the Secretary of Housing and Urban Develop-  
20 ment may waive, or specify alternative requirements for,  
21 any provision of any statute or regulation that the Sec-  
22 retary administers in connection with the obligation by the  
23 Secretary or the use by the recipient of these funds or  
24 guarantees (except for requirements related to fair hous-  
25 ing, nondiscrimination, labor standards, and the environ-

1 ment), upon a request by the State that such waiver is  
2 required to facilitate the use of such funds or guarantees,  
3 and a finding by the Secretary that such waiver would not  
4 be inconsistent with the overall purpose of the statute:  
5 *Provided further*, That the Secretary may waive the re-  
6 quirement that activities benefit persons of low and mod-  
7 erate income, except that at least 50 percent of the funds  
8 made available under this heading must benefit primarily  
9 persons of low and moderate income unless the Secretary  
10 otherwise makes a finding of compelling need: *Provided*  
11 *further*, That the Secretary shall publish in the Federal  
12 Register any waiver of any statute or regulation that the  
13 Secretary administers pursuant to title I of the Housing  
14 and Community Development Act of 1974 no later than  
15 5 days before the effective date of such waiver.

16 (RESCISSION)

17 Of the unobligated balances remaining from funds  
18 appropriated under this heading by section 159 of Public  
19 Law 110–116 for the Louisiana Road Home program,  
20 \$200,000,000 are rescinded.

21 **TITLE IV—VETERANS**  
22 **EDUCATIONAL ASSISTANCE**

23 **SEC. 4001. SHORT TITLE.**

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

1 **SEC. 4002. FINDINGS.**

2 Congress makes the following findings:

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

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

10 (3) The United States has a proud history of  
11 offering educational assistance to millions of vet-  
12 erans, as demonstrated by the many “G.I. Bills” en-  
13 acted since World War II. Educational assistance for  
14 veterans helps reduce the costs of war, assist vet-  
15 erans in readjusting to civilian life after wartime  
16 service, and boost the United States economy, and  
17 has a positive effect on recruitment for the Armed  
18 Forces.

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

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

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

8 **SEC. 4003. EDUCATIONAL ASSISTANCE FOR MEMBERS OF**  
 9                           **THE ARMED FORCES WHO SERVE AFTER SEP-**  
 10                           **TEMBER 11, 2001.**

11           (a) EDUCATIONAL ASSISTANCE AUTHORIZED.—

12                   (1) IN GENERAL.—Part III of title 38, United  
 13 States Code, is amended by inserting after chapter  
 14 32 the following new chapter:

15           **“CHAPTER 33—POST-9/11 EDUCATIONAL**  
 16                           **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 spe-  
 cialty; members serving additional service.

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

“3318. Additional assistance: relocation or travel assistance for individual relo-  
 cating or traveling significant distance for pursuit of a pro-  
 gram of education.

                          “SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

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

“3322. Bar to duplication of educational assistance benefits.

“3323. Administration.

“3324. Allocation of administration and costs.

1                   “SUBCHAPTER I—DEFINITIONS

2   **“§ 3301. Definitions**

3           “In this chapter:

4                   “(1) The term ‘active duty’ has the meanings  
5           as follows (subject to the limitations specified in sec-  
6           tions 3002(6) and 3311(b) of this title):

7                           “(A) In the case of members of the regular  
8                   components of the Armed Forces, the meaning  
9                   given such term in section 101(21)(A) of this  
10                   title.

11                           “(B) In the case of members of the reserve  
12                   components of the Armed Forces, service on ac-  
13                   tive duty under a call or order to active duty  
14                   under section 688, 12301(a), 12301(d),  
15                   12301(g), 12302, or 12304 of title 10.

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

18                           “(A) In the case of members of the Army,  
19                   Basic Combat Training and Advanced Indi-  
20                   vidual Training.

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

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

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

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

9           “(3) The term ‘program of education’ has the  
10 meaning the meaning given such term in section  
11 3002 of this title, except to the extent otherwise pro-  
12 vided in section 3313 of this title.

13           “(4) The term ‘Secretary of Defense’ has the  
14 meaning given such term in section 3002 of this  
15 title.

16   “SUBCHAPTER II—EDUCATIONAL ASSISTANCE  
17   “§ 3311. **Educational assistance for service in the**  
18           **Armed Forces commencing on or after**  
19           **September 11, 2001: entitlement**

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

23           “(b) COVERED INDIVIDUALS.—An individual de-  
24 scribed in this subsection is any individual as follows:

25           “(1) An individual who—

1           “(A) commencing on or after September  
2           11, 2001, serves an aggregate of at least 36  
3           months on active duty in the Armed Forces (in-  
4           cluding service on active duty in entry level and  
5           skill training); and

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

8                   “(i) continues on active duty; or

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

11          “(2) An individual who—

12           “(A) commencing on or after September  
13           11, 2001, serves at least 30 continuous days on  
14           active duty in the Armed Forces; and

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

19          “(3) An individual who—

20           “(A) commencing on or after September  
21           11, 2001, serves an aggregate of at least 30  
22           months, but less than 36 months, on active  
23           duty in the Armed Forces (including service on  
24           active duty in entry level and skill training);  
25           and

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

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

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

9           “(4) An individual who—

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

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

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

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

24           “(5) An individual who—

1           “(A) commencing on or after September  
2           11, 2001, serves an aggregate of at least 18  
3           months, but less than 24 months, on active  
4           duty in the Armed Forces (excluding service on  
5           active duty in entry level and skill training);  
6           and

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

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

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

15           “(6) An individual who—

16                   “(A) commencing on or after September  
17                   11, 2001, serves an aggregate of at least 12  
18                   months, but less than 18 months, on active  
19                   duty in the Armed Forces (excluding service on  
20                   active duty in entry level and skill training);  
21                   and

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

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

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

5           “(7) An individual who—

6           “(A) commencing on or after September  
7           11, 2001, serves an aggregate of at least 6  
8           months, but less than 12 months, on active  
9           duty in the Armed Forces (excluding service on  
10          active duty in entry level and skill training);  
11          and

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

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

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

20          “(8) An individual who—

21               “(A) commencing on or after September  
22               11, 2001, serves an aggregate of at least 90  
23               days, but less than 6 months, on active duty in  
24               the Armed Forces (excluding service on active  
25               duty in entry level and skill training); and

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

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

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

9           “(c) COVERED DISCHARGES AND RELEASES.—A dis-  
10          charge or release from active duty of an individual de-  
11          scribed in this subsection is a discharge or release as fol-  
12          lows:

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

15                   “(2) A release after service on active duty in  
16                   the Armed Forces characterized by the Secretary  
17                   concerned as honorable service and placement on the  
18                   retired list, transfer to the Fleet Reserve or Fleet  
19                   Marine Corps Reserve, or placement on the tem-  
20                   porary disability retired list.

21                   “(3) A release from active duty in the Armed  
22                   Forces for further service in a reserve component of  
23                   the Armed Forces after service on active duty char-  
24                   acterized by the Secretary concerned as honorable  
25                   service.

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

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

8           “(B) hardship; or

9           “(C) a physical or mental condition that  
10 was not characterized as a disability and did  
11 not result from the individual’s own willful mis-  
12 conduct but did interfere with the individual’s  
13 performance of duty, as determined by the Sec-  
14 retary concerned in accordance with regulations  
15 prescribed by the Secretary of Defense.

16       “(d) PROHIBITION ON TREATMENT OF CERTAIN  
17 SERVICE AS PERIOD OF ACTIVE DUTY.—The following  
18 periods of service shall not be considered a part of the  
19 period of active duty on which an individual’s entitlement  
20 to educational assistance under this chapter is based:

21           “(1) A period of service on active duty of an of-  
22 ficer pursuant to an agreement under section  
23 2107(b) of title 10.

1           “(2) A period of service on active duty of an of-  
2           ficer pursuant to an agreement under section 4348,  
3           6959, or 9348 of title 10.

4           “(3) A period of service that is terminated be-  
5           cause of a defective enlistment and induction based  
6           on—

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

9                   “(B) an erroneous enlistment or induction;  
10                  or

11                   “(C) a defective enlistment agreement.

12           “(e) TREATMENT OF INDIVIDUALS ENTITLED  
13 UNDER MULTIPLE PROVISIONS.—In the event an indi-  
14 vidual entitled to educational assistance under this chapter  
15 is entitled by reason of both paragraphs (4) and (5) of  
16 subsection (b), the individual shall be treated as being en-  
17 titled to educational assistance under this chapter by rea-  
18 son of paragraph (5) of such subsection.

19 **“§ 3312. Educational assistance: duration**

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

1       “(b) CONTINUING RECEIPT.—The receipt of edu-  
2 cational assistance under section 3313 of this title by an  
3 individual entitled to educational assistance under this  
4 chapter is subject to the provisions of section 3321(b)(2)  
5 of this title.

6       “(c) DISCONTINUATION OF EDUCATION FOR ACTIVE  
7 DUTY.—(1) Any payment of educational assistance de-  
8 scribed in paragraph (2) shall not—

9               “(A) be charged against any entitlement to edu-  
10 cational assistance of the individual concerned under  
11 this chapter; or

12               “(B) be counted against the aggregate period  
13 for which section 3695 of this title limits the individ-  
14 ual’s receipt of educational assistance under this  
15 chapter.

16       “(2) Subject to paragraph (3), the payment of edu-  
17 cational assistance described in this paragraph is the pay-  
18 ment of such assistance to an individual for pursuit of a  
19 course or courses under this chapter if the Secretary finds  
20 that the individual—

21               “(A)(i) in the case of an individual not serving  
22 on active duty, had to discontinue such course pur-  
23 suit as a result of being called or ordered to serve  
24 on active duty under section 688, 12301(a),  
25 12301(d), 12301(g), 12302, or 12304 of title 10; or

1           “(ii) in the case of an individual serving on ac-  
2           tive duty, had to discontinue such course pursuit as  
3           a result of being ordered to a new duty location or  
4           assignment or to perform an increased amount of  
5           work; and

6           “(B) failed to receive credit or lost training  
7           time toward completion of the individual’s approved  
8           education, professional, or vocational objective as a  
9           result of having to discontinue, as described in sub-  
10          paragraph (A), the individual’s course pursuit.

11          “(3) The period for which, by reason of this sub-  
12          section, educational assistance is not charged against enti-  
13          tlement or counted toward the applicable aggregate period  
14          under section 3695 of this title shall not exceed the por-  
15          tion of the period of enrollment in the course or courses  
16          from which the individual failed to receive credit or with  
17          respect to which the individual lost training time, as deter-  
18          mined under paragraph (2)(B).

19          **“§ 3313. Educational assistance: amount; payment**

20          “(a) PAYMENT.—The Secretary shall pay to each in-  
21          dividual entitled to educational assistance under this chap-  
22          ter who is pursuing an approved program of education  
23          (other than a program covered by subsections (e) and (f))  
24          the amounts specified in subsection (c) to meet the ex-  
25          penses of such individual’s subsistence, tuition, fees, and

1 other educational costs for pursuit of such program of  
2 education.

3       “(b) APPROVED PROGRAMS OF EDUCATION.—A pro-  
4 gram of education is an approved program of education  
5 for purposes of this chapter if the program of education  
6 is offered by an institution of higher learning (as that  
7 term is defined in section 3452(f) of this title) and is ap-  
8 proved for purposes of chapter 30 of this title (including  
9 approval by the State approving agency concerned).

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

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

17                       “(A) An amount equal to the established  
18 charges for the program of education, except  
19 that the amount payable under this subpara-  
20 graph may not exceed the maximum amount of  
21 established charges regularly charged in-State  
22 students for full-time pursuit of approved pro-  
23 grams of education for undergraduates by the  
24 public institution of higher education offering  
25 approved programs of education for under-

1 graduates in the State in which the individual  
2 is enrolled that has the highest rate of regu-  
3 larly-charged established charges for such pro-  
4 grams of education among all public institu-  
5 tions of higher education in such State offering  
6 such programs of education.

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

9 “(i) For each month the individual  
10 pursues the program of education, other  
11 than a program of education offered  
12 through distance learning, a monthly hous-  
13 ing stipend amount equal to the monthly  
14 amount of the basic allowance for housing  
15 payable under section 403 of title 37 for a  
16 member with dependents in pay grade E-  
17 5 residing in the military housing area that  
18 encompasses all or the majority portion of  
19 the ZIP code area in which is located the  
20 institution of higher education at which the  
21 individual is enrolled.

22 “(ii) For the first month of each  
23 quarter, semester, or term, as applicable,  
24 of the program of education pursued by  
25 the individual, a lump sum amount for

1 books, supplies, equipment, and other edu-  
2 cational costs with respect to such quarter,  
3 semester, or term in the amount equal  
4 to—

5 “(I) \$1,000, multiplied by

6 “(II) the fraction which is the  
7 portion of a complete academic year  
8 under the program of education that  
9 such quarter, semester, or term con-  
10 stitutes.

11 “(2) In the case of an individual entitled to  
12 educational assistance under this chapter by reason  
13 of section 3311(b)(3) of this title, amounts equal to  
14 90 percent of the amounts that would be payable to  
15 the individual under paragraph (1) for the program  
16 of education if the individual were entitled to  
17 amounts for the program of education under para-  
18 graph (1) rather than this paragraph.

19 “(3) In the case of an individual entitled to  
20 educational assistance under this chapter by reason  
21 of section 3311(b)(4) of this title, amounts equal to  
22 80 percent of the amounts that would be payable to  
23 the individual under paragraph (1) for the program  
24 of education if the individual were entitled to

1 amounts for the program of education under para-  
2 graph (1) rather than this paragraph.

3 “(4) In the case of an individual entitled to  
4 educational assistance under this chapter by reason  
5 of section 3311(b)(5) of this title, amounts equal to  
6 70 percent of the amounts that would be payable to  
7 the individual under paragraph (1) for the program  
8 of education if the individual were entitled to  
9 amounts for the program of education under para-  
10 graph (1) rather than this paragraph.

11 “(5) In the case of an individual entitled to  
12 educational assistance under this chapter by reason  
13 of section 3311(b)(6) of this title, amounts equal to  
14 60 percent of the amounts that would be payable to  
15 the individual under paragraph (1) for the program  
16 of education if the individual were entitled to  
17 amounts for the program of education under para-  
18 graph (1) rather than this paragraph.

19 “(6) In the case of an individual entitled to  
20 educational assistance under this chapter by reason  
21 of section 3311(b)(7) of this title, amounts equal to  
22 50 percent of the amounts that would be payable to  
23 the individual under paragraph (1) for the program  
24 of education if the individual were entitled to

1 amounts for the program of education under para-  
2 graph (1) rather than this paragraph.

3 “(7) In the case of an individual entitled to  
4 educational assistance under this chapter by reason  
5 of section 3311(b)(8) of this title, amounts equal to  
6 40 percent of the amounts that would be payable to  
7 the individual under paragraph (1) for the program  
8 of education if the individual were entitled to  
9 amounts for the program of education under para-  
10 graph (1) rather than this paragraph.

11 “(d) FREQUENCY OF PAYMENT.—(1) Payment of the  
12 amounts payable under subsection (c)(1)(A), and of simi-  
13 lar amounts payable under paragraphs (2) through (7) of  
14 subsection (c), for pursuit of a program of education shall  
15 be made for the entire quarter, semester, or term, as appli-  
16 cable, of the program of education.

17 “(2) Payment of the amount payable under sub-  
18 section (c)(1)(B), and of similar amounts payable under  
19 paragraphs (2) through (7) of subsection (c), for pursuit  
20 of a program of education shall be made on a monthly  
21 basis.

22 “(3) The Secretary shall prescribe in regulations  
23 methods for determining the number of months (including  
24 fractions thereof) of entitlement of an individual to edu-  
25 cational assistance this chapter that are chargeable under

1 this chapter for an advance payment of amounts under  
2 paragraphs (1) and (2) for pursuit of a program of edu-  
3 cation on a quarter, semester, term, or other basis.

4 “(e) PROGRAMS OF EDUCATION PURSUED ON AC-  
5 TIVE DUTY.—(1) Educational assistance is payable under  
6 this chapter for pursuit of an approved program of edu-  
7 cation while on active duty.

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

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

14 “(B) the amount of the charges of the edu-  
15 cational institution as elected by the individual in  
16 the manner specified in section 3014(b)(1) of this  
17 title.

18 “(3) Payment of the amount payable under para-  
19 graph (2) for pursuit of a program of education shall be  
20 made for the entire quarter, semester, or term, as applica-  
21 ble, of the program of education.

22 “(4) For each month (as determined pursuant to the  
23 methods prescribed under subsection (d)(3)) for which  
24 amounts are paid an individual under this subsection, the  
25 entitlement of the individual to educational assistance

1 under this chapter shall be charged at the rate of one  
2 month for each such month.

3 “(f) PROGRAMS OF EDUCATION PURSUED ON HALF-  
4 TIME BASIS OR LESS.—(1) Educational assistance is pay-  
5 able under this chapter for pursuit of an approved pro-  
6 gram of education on half-time basis or less.

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

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

11 “(i) the established charges which similarly  
12 circumstanced nonveterans enrolled in the pro-  
13 gram of education involved would be required to  
14 pay; or

15 “(ii) the maximum amount that would be  
16 payable to the individual for the program of  
17 education under paragraph (1)(A) of subsection  
18 (c), or under the provisions of paragraphs (2)  
19 through (7) of subsection (c) applicable to the  
20 individual, for the program of education if the  
21 individual were entitled to amounts for the pro-  
22 gram of education under subsection (c) rather  
23 than this subsection.

24 “(B) A stipend in an amount equal to the  
25 amount of the appropriately reduced amount of the

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

4 “(3) Payment of the amounts payable to an indi-  
5 vidual under paragraph (2) for pursuit of a program of  
6 education on half-time basis or less shall be made for the  
7 entire quarter, semester, or term, as applicable, of the pro-  
8 gram of education.

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

15 “(A) the number of course hours borne by the  
16 individual in pursuit of the program of education in-  
17 volved, divided by

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

20 “(g) PAYMENT OF ESTABLISHED CHARGES TO EDU-  
21 CATIONAL INSTITUTIONS.—Amounts payable under sub-  
22 sections (c)(1)(A) (and of similar amounts payable under  
23 paragraphs (2) through (7) of subsection (c)), (e)(2) and  
24 (f)(2)(A) shall be paid directly to the educational institu-  
25 tion concerned.

1       “(h) ESTABLISHED CHARGES DEFINED.—(1) In this  
 2 section, the term ‘established charges’, in the case of a  
 3 program of education, means the actual charges (as deter-  
 4 mined pursuant to regulations prescribed by the Sec-  
 5 retary) for tuition and fees which similarly circumstanced  
 6 nonveterans enrolled in the program of education would  
 7 be required to pay.

8       “(2) Established charges shall be determined for pur-  
 9 poses of this subsection on the following basis:

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

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

18 **“§ 3314. Tutorial assistance**

19       “(a) IN GENERAL.—Subject to subsection (b), an in-  
 20 dividual entitled to educational assistance under this chap-  
 21 ter shall also be entitled to benefits provided an eligible  
 22 veteran under section 3492 of this title.

23       “(b) CONDITIONS.—(1) The provision of benefits  
 24 under subsection (a) shall be subject to the conditions ap-

1 plicable to an eligible veteran under section 3492 of this  
2 title.

3 “(2) In addition to the conditions specified in para-  
4 graph (1), benefits may not be provided to an individual  
5 under subsection (a) unless the professor or other indi-  
6 vidual teaching, leading, or giving the course for which  
7 such benefits are provided certifies that—

8 “(A) such benefits are essential to correct a de-  
9 ficiency of the individual in such course; and

10 “(B) such course is required as a part of, or is  
11 prerequisite or indispensable to the satisfactory pur-  
12 suit of, an approved program of education.

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

17 “(2) The amount provided an individual under this  
18 subsection is in addition to the amounts of educational as-  
19 sistance paid the individual under section 3313 of this  
20 title.

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

1 **“§ 3315. Licensure and certification tests**

2 “(a) IN GENERAL.—An individual entitled to edu-  
3 cational assistance under this chapter shall also be entitled  
4 to payment for one licensing or certification test described  
5 in section 3452(b) of this title.

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

9 “(1) \$2,000; or

10 “(2) the fee charged for the test.

11 “(c) NO CHARGE AGAINST ENTITLEMENT.—Any  
12 amount paid an individual under subsection (a) is in addi-  
13 tion to any other educational assistance benefits provided  
14 the individual under this chapter.

15 **“§ 3316. Supplemental educational assistance: mem-  
16 bers with critical skills or specialty; mem-  
17 bers serving additional service**

18 “(a) INCREASED ASSISTANCE FOR MEMBERS WITH  
19 CRITICAL SKILLS OR SPECIALTY.—(1) In the case of an  
20 individual who has a skill or specialty designated by the  
21 Secretary concerned as a skill or specialty in which there  
22 is a critical shortage of personnel or for which it is difficult  
23 to recruit or, in the case of critical units, retain personnel,  
24 the Secretary concerned may increase the monthly amount  
25 of educational assistance otherwise payable to the indi-  
26 vidual under paragraph (1)(B) of section 3313(c) of this

1 title, or under paragraphs (2) through (7) of such section  
2 (as applicable).

3 “(2) The amount of the increase in educational as-  
4 sistance authorized by paragraph (1) may not exceed the  
5 amount equal to the monthly amount of increased basic  
6 educational assistance providable under section  
7 3015(d)(1) of this title at the time of the increase under  
8 paragraph (1).

9 “(b) SUPPLEMENTAL ASSISTANCE FOR ADDITIONAL  
10 SERVICE.—(1) The Secretary concerned may provide for  
11 the payment to an individual entitled to educational assist-  
12 ance under this chapter of supplemental educational as-  
13 sistance for additional service authorized by subchapter  
14 III of chapter 30 of this title. The amount so payable shall  
15 be payable as an increase in the monthly amount of edu-  
16 cational assistance otherwise payable to the individual  
17 under paragraph (1)(B) of section 3313(c) of this title,  
18 or under paragraphs (2) through (7) of such section (as  
19 applicable).

20 “(2) Eligibility for supplement educational assistance  
21 under this subsection shall be determined in accordance  
22 with the provisions of subchapter III of chapter 30 of this  
23 title, except that any reference in such provisions to eligi-  
24 bility for basic educational assistance under a provision  
25 of subchapter II of chapter 30 of this title shall be treated

1 as a reference to eligibility for educational assistance  
2 under the appropriate provision of this chapter.

3 “(3) The amount of supplemental educational assist-  
4 ance payable under this subsection shall be the amount  
5 equal to the monthly amount of supplemental educational  
6 payable under section 3022 of this title.

7 “(c) REGULATIONS.—The Secretaries concerned shall  
8 administer this section in accordance with such regula-  
9 tions as the Secretary of Defense shall prescribe.

10 **“§ 3317. Public-private contributions for additional**  
11 **educational assistance**

12 “(a) ESTABLISHMENT OF PROGRAM.—In instances  
13 where the educational assistance provided pursuant to sec-  
14 tion 3313(c)(1)(A) does not cover the full cost of estab-  
15 lished charges (as specified in section 3313 of this title),  
16 the Secretary shall carry out a program under which col-  
17 leges and universities can, voluntarily, enter into an agree-  
18 ment with the Secretary to cover a portion of those estab-  
19 lished charges not otherwise covered under section  
20 3313(c)(1)(A), which contributions shall be matched by  
21 equivalent contributions toward such costs by the Sec-  
22 retary. The program shall only apply to covered individ-  
23 uals described in paragraphs (1) and (2) of section  
24 3311(b).

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

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

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

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

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

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

21       “(d) MATCHING CONTRIBUTIONS.—(1) In instances  
22 where the educational assistance provided an individual  
23 under section 3313(c)(1)(A) of this title does not cover  
24 the full cost of tuition and mandatory fees at a college  
25 or university, the Secretary shall provide up to 50 percent

1 of the remaining costs for tuition and mandatory fees if  
 2 the college or university voluntarily enters into an agree-  
 3 ment with the Secretary to match an equal percentage of  
 4 any of the remaining costs for such tuition and fees.

5 “(2) Amounts available to the Secretary under sec-  
 6 tion 3324(b) of this title for payment of the costs of this  
 7 chapter shall be available to the Secretary for purposes  
 8 of paragraph (1).

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

16 **“§ 3318. Additional assistance: relocation or travel as-**  
 17 **sistance for individual relocating or trav-**  
 18 **eling significant distance for pursuit of a**  
 19 **program of education**

20 “(a) ADDITIONAL ASSISTANCE.—Each individual de-  
 21 scribed in subsection (b) shall be paid additional assist-  
 22 ance under this section in the amount of \$500.

23 “(b) COVERED INDIVIDUALS.—An individual de-  
 24 scribed in this subsection is any individual entitled to edu-  
 25 cational assistance under this chapter—

1           “(1) who resides in a highly rural area (as de-  
2           termined by the Bureau of the Census); and

3           “(2) who—

4                   “(A) physically relocates a distance of at  
5                   least 500 miles in order to pursue a program of  
6                   education for which the individual utilizes edu-  
7                   cational assistance under this chapter; or

8                   “(B) travels by air to physically attend an  
9                   institution of higher education for pursuit of  
10                  such a program of education because the indi-  
11                  vidual cannot travel to such institution by auto-  
12                  mobile or other established form of transpor-  
13                  tation due to an absence of road or other infra-  
14                  structure.

15          “(c) PROOF OF RESIDENCE.—For purposes of sub-  
16          section (b)(1), an individual may demonstrate the individ-  
17          ual’s place of residence utilizing any of the following:

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

20                  “(2) The most recent Federal income tax re-  
21          turn.

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

1       “(d) SINGLE PAYMENT OF ASSISTANCE.—An indi-  
2       vidual is entitled to only one payment of additional assist-  
3       ance under this section.

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

8               “SUBCHAPTER III—ADMINISTRATIVE  
9                               PROVISIONS

10   “§ 3321. **Time limitation for use of and eligibility for**  
11                               **entitlement**

12       “(a) IN GENERAL.—Except as provided in this sec-  
13       tion, the period during which an individual entitled to edu-  
14       cational assistance under this chapter may use such indi-  
15       vidual’s entitlement expires at the end of the 15-year pe-  
16       riod beginning on the date of such individual’s last dis-  
17       charge or release from active duty.

18       “(b) EXCEPTIONS.—(1) Subsections (b), (c), and (d)  
19       of section 3031 of this title shall apply with respect to  
20       the running of the 15-year period described in subsection  
21       (a) of this section in the same manner as such subsections  
22       apply under section 3031 of this title with respect to the  
23       running of the 10-year period described in section 3031(a)  
24       of this title.



1 prescribe) under which chapter or provisions to receive  
2 educational assistance.

3       “(b) INAPPLICABILITY OF SERVICE TREATED UNDER  
4 EDUCATIONAL LOAN REPAYMENT PROGRAMS.—A period  
5 of service counted for purposes of repayment of an edu-  
6 cation loan under chapter 109 of title 10 may not be  
7 counted as a period of service for entitlement to edu-  
8 cational assistance under this chapter.

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

16       “(d) ADDITIONAL COORDINATION MATTERS.—In the  
17 case of an individual entitled to educational assistance  
18 under chapter 30, 31, 32, or 35 of this title, chapter 107,  
19 1606, or 1607 of title 10, or the provisions of the Hostage  
20 Relief Act of 1980, or making contributions toward enti-  
21 tlement to educational assistance under chapter 30 of this  
22 title, as of August 1, 2009, coordination of entitlement  
23 to educational assistance under this chapter, on the one  
24 hand, and such chapters or provisions, on the other, shall

1 be governed by the provisions of section \_\_\_\_03(c) of the  
2 Post-9/11 Veterans Educational Assistance Act of 2008.

3 **“§ 3323. Administration**

4 “(a) IN GENERAL.—(1) Except as otherwise provided  
5 in this chapter, the provisions specified in section  
6 3034(a)(1) of this title shall apply to the provision of edu-  
7 cational assistance under this chapter.

8 “(2) In applying the provisions referred to in para-  
9 graph (1) to an individual entitled to educational assist-  
10 ance under this chapter for purposes of this section, the  
11 reference in such provisions to the term ‘eligible veteran’  
12 shall be deemed to refer to an individual entitled to edu-  
13 cational assistance under this chapter.

14 “(3) In applying section 3474 of this title to an indi-  
15 vidual entitled to educational assistance under this chapter  
16 for purposes of this section, the reference in such section  
17 3474 to the term ‘educational assistance allowance’ shall  
18 be deemed to refer to educational assistance payable under  
19 section 3313 of this title.

20 “(4) In applying section 3482(g) of this title to an  
21 individual entitled to educational assistance under this  
22 chapter for purposes of this section—

23 “(A) the first reference to the term ‘educational  
24 assistance allowance’ in such section 3482(g) shall

1 be deemed to refer to educational assistance payable  
2 under section 3313 of this title; and

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

6 “(b) INFORMATION ON BENEFITS.—(1) The Sec-  
7 retary of Veterans Affairs shall provide the information  
8 described in paragraph (2) to each member of the Armed  
9 Forces at such times as the Secretary of Veterans Affairs  
10 and the Secretary of Defense shall jointly prescribe in reg-  
11 ulations.

12 “(2) The information described in this paragraph is  
13 information on benefits, limitations, procedures, eligibility  
14 requirements (including time-in-service requirements),  
15 and other important aspects of educational assistance  
16 under this chapter, including application forms for such  
17 assistance under section 5102 of this title.

18 “(3) The Secretary of Veterans Affairs shall furnish  
19 the information and forms described in paragraph (2), and  
20 other educational materials on educational assistance  
21 under this chapter, to educational institutions, training es-  
22 tablishments, military education personnel, and such other  
23 persons and entities as the Secretary considers appro-  
24 priate.

1       “(c) REGULATIONS.—(1) The Secretary shall pre-  
2 scribe regulations for the administration of this chapter.

3       “(2) Any regulations prescribed by the Secretary of  
4 Defense for purposes of this chapter shall apply uniformly  
5 across the Armed Forces.

6       **“§ 3324. Allocation of administration and costs**

7       “(a) ADMINISTRATION.—Except as otherwise pro-  
8 vided in this chapter, the Secretary shall administer the  
9 provision of educational assistance under this chapter.

10       “(b) COSTS.—Payments for entitlement to edu-  
11 cational assistance earned under this chapter shall be  
12 made from funds appropriated to, or otherwise made avail-  
13 able to, the Department of Veterans Affairs for the pay-  
14 ment of readjustment benefits.”.

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

**“33. Post-9/11 Educational Assistance ..... 3301”.**

20       (b) CONFORMING AMENDMENTS.—

21               (1) AMENDMENTS RELATING TO DUPLICATION  
22 OF BENEFITS.—

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

1 (i) in subsection (a)(1), by inserting  
2 “33,” after “32,”; and

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

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

12 “(4) Chapters 30, 32, 33, 34, 35, and 36 of  
13 this title.”.

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

17 (2) ADDITIONAL CONFORMING AMENDMENTS.—

18 (A) Title 38, United States Code, is fur-  
19 ther amended by inserting “33,” after “32,”  
20 each place it appears in the following provi-  
21 sions:

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

24 (ii) In section 3688(b).

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

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

4 (v) In subsections (a) and (b) of sec-  
5 tion 3692.

6 (vi) In section 3697(a).

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

10 (c) APPLICABILITY TO INDIVIDUALS UNDER MONT-  
11 GOMERY GI BILL PROGRAM.—

12 (1) INDIVIDUALS ELIGIBLE TO ELECT PARTICI-  
13 PATION IN POST-9/11 EDUCATIONAL ASSISTANCE.—

14 An individual may elect to receive educational assist-  
15 ance under chapter 33 of title 38, United States  
16 Code (as added by subsection (a)), if such indi-  
17 vidual—

18 (A) as of August 1, 2009—

19 (i) is entitled to basic educational as-  
20 sistance under chapter 30 of title 38,  
21 United States Code, and has used, but re-  
22 tains unused, entitlement under that chap-  
23 ter;

24 (ii) is entitled to educational assist-  
25 ance under chapter 107, 1606, or 1607 of

1 title 10, United States Code, and has used,  
2 but retains unused, entitlement under the  
3 applicable chapter;

4 (iii) is entitled to basic educational as-  
5 sistance under chapter 30 of title 38,  
6 United States Code, but has not used any  
7 entitlement under that chapter;

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

12 (v) is a member of the Armed Forces  
13 who is eligible for receipt of basic edu-  
14 cational assistance under chapter 30 of  
15 title 38, United States Code, and is mak-  
16 ing contributions toward such assistance  
17 under section 3011(b) or 3012(c) of such  
18 title; or

19 (vi) is a member of the Armed Forces  
20 who is not entitled to basic educational as-  
21 sistance under chapter 30 of title 38,  
22 United States Code, by reason of an elec-  
23 tion under section 3011(c)(1) or  
24 3012(d)(1) of such title; and

1           (B) as of the date of the individual's elec-  
2           tion under this paragraph, meets the require-  
3           ments for entitlement to educational assistance  
4           under chapter 33 of title 38, United States  
5           Code (as so added).

6           (2) CESSATION OF CONTRIBUTIONS TOWARD GI  
7           BILL.—Effective as of the first month beginning on  
8           or after the date of an election under paragraph (1)  
9           of an individual described by subparagraph (A)(v) of  
10          that paragraph, the obligation of the individual to  
11          make contributions under section 3011(b) or  
12          3012(c) of title 38, United States Code, as applica-  
13          ble, shall cease, and the requirements of such section  
14          shall be deemed to be no longer applicable to the in-  
15          dividual.

16          (3) REVOCATION OF REMAINING TRANSFERRED  
17          ENTITLEMENT.—

18               (A) ELECTION TO REVOKE.—If, on the  
19               date an individual described in subparagraph  
20               (A)(i) or (A)(iii) of paragraph (1) makes an  
21               election under that paragraph, a transfer of the  
22               entitlement of the individual to basic edu-  
23               cational assistance under section 3020 of title  
24               38, United States Code, is in effect and a num-  
25               ber of months of the entitlement so transferred

1 remain unutilized, the individual may elect to  
2 revoke all or a portion of the entitlement so  
3 transferred that remains unutilized.

4 (B) AVAILABILITY OF REVOKED ENTITLE-  
5 MENT.—Any entitlement revoked by an indi-  
6 vidual under this paragraph shall no longer be  
7 available to the dependent to whom transferred,  
8 but shall be available to the individual instead  
9 for educational assistance under chapter 33 of  
10 title 38, United States Code (as so added), in  
11 accordance with the provisions of this sub-  
12 section.

13 (C) AVAILABILITY OF UNREVOKED ENTI-  
14 TLEMENT.—Any entitlement described in sub-  
15 paragraph (A) that is not revoked by an indi-  
16 vidual in accordance with that subparagraph  
17 shall remain available to the dependent or de-  
18 pendents concerned in accordance with the cur-  
19 rent transfer of such entitlement under section  
20 3020 of title 38, United States Code.

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

22 (A) IN GENERAL.—Subject to subpara-  
23 graph (B) and except as provided in paragraph  
24 (5), an individual making an election under  
25 paragraph (1) shall be entitled to educational

1 assistance under chapter 33 of title 38, United  
2 States Code (as so added), in accordance with  
3 the provisions of such chapter, instead of basic  
4 educational assistance under chapter 30 of title  
5 38, United States Code, or educational assist-  
6 ance under chapter 107, 1606, or 1607 of title  
7 10, United States Code, as applicable.

8 (B) LIMITATION ON ENTITLEMENT FOR  
9 CERTAIN INDIVIDUALS.—In the case of an indi-  
10 vidual making an election under paragraph (1)  
11 who is described by subparagraph (A)(i) of that  
12 paragraph, the number of months of entitle-  
13 ment of the individual to educational assistance  
14 under chapter 33 of title 38, United States  
15 Code (as so added), shall be the number of  
16 months equal to—

17 (i) the number of months of unused  
18 entitlement of the individual under chapter  
19 30 of title 38, United States Code, as of  
20 the date of the election, plus

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

1           (5) CONTINUING ENTITLEMENT TO EDU-  
2           CATIONAL ASSISTANCE NOT AVAILABLE UNDER 9/11  
3           ASSISTANCE PROGRAM.—

4           (A) IN GENERAL.—In the event edu-  
5           cational assistance to which an individual mak-  
6           ing an election under paragraph (1) would be  
7           entitled under chapter 30 of title 38, United  
8           States Code, or chapter 107, 1606, or 1607 of  
9           title 10, United States Code, as applicable, is  
10          not authorized to be available to the individual  
11          under the provisions of chapter 33 of title 38,  
12          United States Code (as so added), the indi-  
13          vidual shall remain entitled to such educational  
14          assistance in accordance with the provisions of  
15          the applicable chapter.

16          (B) CHARGE FOR USE OF ENTITLE-  
17          MENT.—The utilization by an individual of enti-  
18          tlement under subparagraph (A) shall be  
19          chargeable against the entitlement of the indi-  
20          vidual to educational assistance under chapter  
21          33 of title 38, United States Code (as so  
22          added), at the rate of one month of entitlement  
23          under such chapter 33 for each month of enti-  
24          tlement utilized by the individual under sub-  
25          paragraph (A) (as determined as if such entitle-

1           ment were utilized under the provisions of chap-  
2           ter 30 of title 38, United States Code, or chap-  
3           ter 107, 1606, or 1607 of title 10, United  
4           States Code, as applicable).

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

8                   (A) ADDITIONAL ASSISTANCE.—In the  
9                   case of an individual making an election under  
10                  paragraph (1) who is described by clause (i),  
11                  (iii), or (v) of subparagraph (A) of that para-  
12                  graph, the amount of educational assistance  
13                  payable to the individual under chapter 33 of  
14                  title 38, United States Code (as so added), as  
15                  a monthly stipend payable under paragraph  
16                  (1)(B) of section 3313(c) of such title (as so  
17                  added), or under paragraphs (2) through (7) of  
18                  that section (as applicable), shall be the amount  
19                  otherwise payable as a monthly stipend under  
20                  the applicable paragraph increased by the  
21                  amount equal to—

22                           (i) the total amount of contributions  
23                           toward basic educational assistance made  
24                           by the individual under section 3011(b) or

1                   3012(c) of title 38, United States Code, as  
2                   of the date of the election, multiplied by

3                   (ii) the fraction—

4                   (I) the numerator of which is—

5                   (aa) the number of months  
6                   of entitlement to basic edu-  
7                   cational assistance under chapter  
8                   30 of title 38, United States  
9                   Code, remaining to the individual  
10                  at the time of the election; plus

11                  (bb) the number of months,  
12                  if any, of entitlement under such  
13                  chapter 30 revoked by the indi-  
14                  vidual under paragraph (3)(A);  
15                  and

16                  (II) the denominator of which is  
17                  36 months.

18                  (B) MONTHS OF REMAINING ENTITLE-  
19                  MENT FOR CERTAIN INDIVIDUALS.—In the case  
20                  of an individual covered by subparagraph (A)  
21                  who is described by paragraph (1)(A)(v), the  
22                  number of months of entitlement to basic edu-  
23                  cational assistance remaining to the individual  
24                  for purposes of subparagraph (A)(ii)(I)(aa)  
25                  shall be 36 months.

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

12          (7) CONTINUING ENTITLEMENT TO ADDITIONAL  
13          ASSISTANCE FOR CRITICAL SKILLS OR SPECIALITY  
14          AND ADDITIONAL SERVICE.—An individual making  
15          an election under paragraph (1)(A) who, at the time  
16          of the election, is entitled to increased educational  
17          assistance under section 3015(d) of title 38, United  
18          States Code, or section 16131(i) of title 10, United  
19          States Code, or supplemental educational assistance  
20          under subchapter III of chapter 30 of title 38,  
21          United States Code, shall remain entitled to such in-  
22          creased educational assistance or supplemental edu-  
23          cational assistance in the utilization of entitlement  
24          to educational assistance under chapter 33 of title  
25          38, United States Code (as so added), in an amount

1 equal to the quarter, semester, or term, as applica-  
2 ble, equivalent of the monthly amount of such in-  
3 creased educational assistance or supplemental edu-  
4 cational assistance payable with respect to the indi-  
5 vidual at the time of the election.

6 (8) IRREVOCABILITY OF ELECTIONS.—An elec-  
7 tion under paragraph (1) or (3)(A) is irrevocable.

8 (d) EFFECTIVE DATE.—This section and the amend-  
9 ments made by this section shall take effect on August  
10 1, 2009.

11 **SEC. 4004. INCREASE IN AMOUNTS OF BASIC EDUCATIONAL**  
12 **ASSISTANCE UNDER THE MONTGOMERY GI**  
13 **BILL.**

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

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

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

23 (2) by redesignating subparagraph (D) as sub-  
24 paragraph (B).

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

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

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

9 (2) by redesignating subparagraph (D) as sub-  
10 paragraph (B).

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

15 “(A) the average cost of undergraduate tuition  
16 in the United States, as determined by the National  
17 Center for Education Statistics, for the last aca-  
18 demic year preceding the beginning of the fiscal year  
19 for which the increase is made, exceeds

20 “(B) the average cost of undergraduate tuition  
21 in the United States, as so determined, for the aca-  
22 demic year preceding the academic year described in  
23 subparagraph (A).”.

24 (d) EFFECTIVE DATE.—

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

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

10 **SEC. 4005. MODIFICATION OF AMOUNT AVAILABLE FOR RE-**  
11 **IMBURSEMENT OF STATE AND LOCAL AGEN-**  
12 **CIES ADMINISTERING VETERANS EDUCATION**  
13 **BENEFITS.**

14           Section 3674(a)(4) of title 38, United States Code,  
15 is amended by striking “may not exceed” and all that fol-  
16 lows through the end and inserting “shall be  
17 \$19,000,000.”.

18 **TITLE V—EMERGENCY UNEM-**  
19 **PLOYMENT COMPENSATION**

20 **FEDERAL-STATE AGREEMENTS**

21           SEC. 5001. (a) IN GENERAL.—Any State which de-  
22 sires to do so may enter into and participate in an agree-  
23 ment under this title with the Secretary of Labor (in this  
24 title referred to as the “Secretary”). Any State which is  
25 a party to an agreement under this title may, upon pro-

1 viding 30 days written notice to the Secretary, terminate  
2 such agreement.

3 (b) PROVISIONS OF AGREEMENT.—Any agreement  
4 under subsection (a) shall provide that the State agency  
5 of the State will make payments of emergency unemploy-  
6 ment compensation to individuals who—

7 (1) have exhausted all rights to regular com-  
8 pensation under the State law or under Federal law  
9 with respect to a benefit year (excluding any benefit  
10 year that ended before May 1, 2007);

11 (2) have no rights to regular compensation or  
12 extended compensation with respect to a week under  
13 such law or any other State unemployment com-  
14 pensation law or to compensation under any other  
15 Federal law (except as provided under subsection  
16 (e)); and

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

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

24 (1) no payments of regular compensation can  
25 be made under such law because such individual has

1 received all regular compensation available to such  
2 individual based on employment or wages during  
3 such individual's base period; or

4 (2) such individual's rights to such compensa-  
5 tion have been terminated by reason of the expira-  
6 tion of the benefit year with respect to which such  
7 rights existed.

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

10 (1) the amount of emergency unemployment  
11 compensation which shall be payable to any indi-  
12 vidual for any week of total unemployment shall be  
13 equal to the amount of the regular compensation  
14 (including dependents' allowances) payable to such  
15 individual during such individual's benefit year  
16 under the State law for a week of total unemploy-  
17 ment;

18 (2) the terms and conditions of the State law  
19 which apply to claims for regular compensation and  
20 to the payment thereof shall apply to claims for  
21 emergency unemployment compensation and the  
22 payment thereof, except where otherwise inconsistent  
23 with the provisions of this title or with the regula-  
24 tions or operating instructions of the Secretary pro-  
25 mulgated to carry out this title; and

1           (3) the maximum amount of emergency unem-  
2           ployment compensation payable to any individual for  
3           whom an emergency unemployment compensation  
4           account is established under section 5002 shall not  
5           exceed the amount established in such account for  
6           such individual.

7           (e) ELECTION BY STATES.—Notwithstanding any  
8           other provision of Federal law (and if State law permits),  
9           the Governor of a State that is in an extended benefit pe-  
10          riod may provide for the payment of emergency unemploy-  
11          ment compensation prior to extended compensation to in-  
12          dividuals who otherwise meet the requirements of this sec-  
13          tion.

14          EMERGENCY UNEMPLOYMENT COMPENSATION ACCOUNT  
15          SEC. 5002. (a) IN GENERAL.—Any agreement under  
16          this title shall provide that the State will establish, for  
17          each eligible individual who files an application for emer-  
18          gency unemployment compensation, an emergency unem-  
19          ployment compensation account with respect to such indi-  
20          vidual's benefit year.

21          (b) AMOUNT IN ACCOUNT.—

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

25                          (A) 50 percent of the total amount of reg-  
26                          ular compensation (including dependents' allow-

1           ances) payable to the individual during the indi-  
2           vidual's benefit year under such law, or

3                   (B) 13 times the individual's average week-  
4           ly benefit amount for the benefit year.

5           (2) WEEKLY BENEFIT AMOUNT.—For purposes  
6           of this subsection, an individual's weekly benefit  
7           amount for any week is the amount of regular com-  
8           pensation (including dependents' allowances) under  
9           the State law payable to such individual for such  
10          week for total unemployment.

11          (c) SPECIAL RULE.—

12           (1) IN GENERAL.—Notwithstanding any other  
13          provision of this section, if, at the time that the indi-  
14          vidual's account is exhausted or at any time there-  
15          after, such individual's State is in an extended ben-  
16          efit period (as determined under paragraph (2)),  
17          then, such account shall be augmented by an  
18          amount equal to the amount originally established in  
19          such account (as determined under subsection  
20          (b)(1)).

21           (2) EXTENDED BENEFIT PERIOD.—For pur-  
22          poses of paragraph (1), a State shall be considered  
23          to be in an extended benefit period, as of any given  
24          time, if—

1 (A) such a period is then in effect for such  
2 State under the Federal-State Extended Unem-  
3 ployment Compensation Act of 1970;

4 (B) such a period would then be in effect  
5 for such State under such Act if section 203(d)  
6 of such Act—

7 (i) were applied by substituting “4”  
8 for “5” each place it appears; and

9 (ii) did not include the requirement  
10 under paragraph (1)(A); or

11 (C) such a period would then be in effect  
12 for such State under such Act if—

13 (i) section 203(f) of such Act were ap-  
14 plied to such State (regardless of whether  
15 the State by law had provided for such ap-  
16 plication); and

17 (ii) such section 203(f)—

18 (I) were applied by substituting  
19 “6.0” for “6.5” in paragraph  
20 (1)(A)(i); and

21 (II) did not include the require-  
22 ment under paragraph (1)(A)(ii).

1 PAYMENTS TO STATES HAVING AGREEMENTS FOR THE  
2 PAYMENT OF EMERGENCY UNEMPLOYMENT COM-  
3 PENSATION

4 SEC. 5003. (a) GENERAL RULE.—There shall be paid  
5 to each State that has entered into an agreement under  
6 this title an amount equal to 100 percent of the emergency  
7 unemployment compensation paid to individuals by the  
8 State pursuant to such agreement.

9 (b) TREATMENT OF REIMBURSABLE COMPENSA-  
10 TION.—No payment shall be made to any State under this  
11 section in respect of any compensation to the extent the  
12 State is entitled to reimbursement in respect of such com-  
13 pensation under the provisions of any Federal law other  
14 than this title or chapter 85 of title 5, United States Code.  
15 A State shall not be entitled to any reimbursement under  
16 such chapter 85 in respect of any compensation to the ex-  
17 tent the State is entitled to reimbursement under this title  
18 in respect of such compensation.

19 (c) DETERMINATION OF AMOUNT.—Sums payable to  
20 any State by reason of such State having an agreement  
21 under this title shall be payable, either in advance or by  
22 way of reimbursement (as may be determined by the Sec-  
23 retary), in such amounts as the Secretary estimates the  
24 State will be entitled to receive under this title for each  
25 calendar month, reduced or increased, as the case may be,

1 by any amount by which the Secretary finds that the Sec-  
2 retary's estimates for any prior calendar month were  
3 greater or less than the amounts which should have been  
4 paid to the State. Such estimates may be made on the  
5 basis of such statistical, sampling, or other method as may  
6 be agreed upon by the Secretary and the State agency of  
7 the State involved.

8 FINANCING PROVISIONS

9 SEC. 5004. (a) IN GENERAL.—Funds in the extended  
10 unemployment compensation account (as established by  
11 section 905(a) of the Social Security Act (42 U.S.C.  
12 1105(a)) of the Unemployment Trust Fund (as estab-  
13 lished by section 904(a) of such Act (42 U.S.C. 1104(a))  
14 shall be used for the making of payments to States having  
15 agreements entered into under this title.

16 (b) CERTIFICATION.—The Secretary shall from time  
17 to time certify to the Secretary of the Treasury for pay-  
18 ment to each State the sums payable to such State under  
19 this title. The Secretary of the Treasury, prior to audit  
20 or settlement by the Government Accountability Office,  
21 shall make payments to the State in accordance with such  
22 certification, by transfers from the extended unemploy-  
23 ment compensation account (as so established) to the ac-  
24 count of such State in the Unemployment Trust Fund (as  
25 so established).



1 statement or representation of a material fact, or know-  
2 ingly has failed, or caused another to fail, to disclose a  
3 material fact, and as a result of such false statement or  
4 representation or of such nondisclosure such individual  
5 has received an amount of emergency unemployment com-  
6 pensation under this title to which such individual was not  
7 entitled, such individual—

8           (1) shall be ineligible for further emergency un-  
9           employment compensation under this title in accord-  
10          ance with the provisions of the applicable State un-  
11          employment compensation law relating to fraud in  
12          connection with a claim for unemployment com-  
13          pensation; and

14           (2) shall be subject to prosecution under section  
15          1001 of title 18, United States Code.

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

23           (1) the payment of such emergency unemploy-  
24          ment compensation was without fault on the part of  
25          any such individual; and

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

3           (c) RECOVERY BY STATE AGENCY.—

4           (1) IN GENERAL.—The State agency may re-  
5           cover the amount to be repaid, or any part thereof,  
6           by deductions from any emergency unemployment  
7           compensation payable to such individual under this  
8           title or from any unemployment compensation pay-  
9           able to such individual under any State or Federal  
10          unemployment compensation law administered by  
11          the State agency or under any other State or Fed-  
12          eral law administered by the State agency which  
13          provides for the payment of any assistance or allow-  
14          ance with respect to any week of unemployment,  
15          during the 3-year period after the date such individ-  
16          uals received the payment of the emergency unem-  
17          ployment compensation to which they were not enti-  
18          tled, except that no single deduction may exceed 50  
19          percent of the weekly benefit amount from which  
20          such deduction is made.

21          (2) OPPORTUNITY FOR HEARING.—No repay-  
22          ment shall be required, and no deduction shall be  
23          made, until a determination has been made, notice  
24          thereof and an opportunity for a fair hearing has



1 amounts remaining in an account established under  
2 section 5002 as of the last day of the last week (as  
3 determined in accordance with the applicable State  
4 law) ending on or before March 31, 2009, emergency  
5 unemployment compensation shall continue to be  
6 payable to such individual from such amounts for  
7 any week beginning after such last day for which the  
8 individual meets the eligibility requirements of this  
9 title.

10 (2) LIMIT ON AUGMENTATION.—If the account  
11 of an individual is exhausted after the last day of  
12 such last week (as so determined), then section  
13 5002(e) shall not apply and such account shall not  
14 be augmented under such section, regardless of  
15 whether such individual's State is in an extended  
16 benefit period (as determined under paragraph (2)  
17 of such section).

18 (3) LIMIT ON COMPENSATION.—No compensa-  
19 tion shall be payable by reason of paragraph (1) for  
20 any week beginning after June 30, 2009.

## 21 TITLE VI—OTHER HEALTH MATTERS

22 SEC. 6001. (a) MORATORIA ON CERTAIN MEDICAID  
23 REGULATIONS.—

24 (1) EXTENSION OF CERTAIN MORATORIA IN  
25 PUBLIC LAW 110–28.—Section 7002(a)(1) of the

1 U.S. Troop Readiness, Veterans' Care, Katrina Re-  
2 covery, and Iraq Accountability Appropriations Act,  
3 2007 (Public Law 110–28) is amended—

4 (A) by striking “prior to the date that is  
5 1 year after the date of enactment of this Act”  
6 and inserting “prior to April 1, 2009”;

7 (B) in subparagraph (A), by inserting after  
8 “Federal Regulations)” the following: “or in the  
9 final regulation, relating to such parts, pub-  
10 lished on May 29, 2007 (72 Federal Register  
11 29748)”;

12 (C) in subparagraph (C), by inserting be-  
13 fore the period at the end the following: “, in-  
14 cluding the proposed regulation published on  
15 May 23, 2007 (72 Federal Register 28930)”.

16 (2) EXTENSION OF CERTAIN MORATORIA IN  
17 PUBLIC LAW 110–173.—Section 206 of the Medicare,  
18 Medicaid, and SCHIP Extension Act of 2007 (Pub-  
19 lic Law 110–173) is amended—

20 (A) by striking “June 30, 2008” and in-  
21 serting “April 1, 2009”;

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

1           (C) by inserting “, including the final reg-  
2           ulation published on December 28, 2007 (72  
3           Federal Register 73635),” after “school-based  
4           transportation”.

5           (3) MORATORIUM ON INTERIM FINAL MEDICAID  
6           REGULATION RELATING TO OPTIONAL CASE MAN-  
7           AGEMENT AND TARGETED CASE MANAGEMENT SERV-  
8           ICES.—Notwithstanding any other provision of law,  
9           the Secretary of Health and Human Services shall  
10          not, prior to April 1, 2009, finalize, implement, en-  
11          force, or otherwise take any action (through promul-  
12          gation of regulation, issuance of regulatory guidance,  
13          use of Federal payment audit procedures, or other  
14          administrative action, policy, or practice, including a  
15          Medical Assistance Manual transmittal or letter to  
16          State Medicaid directors) to impose any restrictions  
17          relating to the interim final regulation relating to  
18          optional State plan case management services and  
19          targeted case management services under the Med-  
20          icaid program published on December 4, 2007 (72  
21          Federal Register 68077) in its entirety.

22          (4) ADDITIONAL MORATORIA.—

23                 (A) IN GENERAL.—Notwithstanding any  
24                 other provision of law, the Secretary of Health  
25                 and Human Services shall not, prior to April 1,

1           2009, take any action (through promulgation of  
2           regulation, issuance of regulatory guidance, use  
3           of Federal payment audit procedures, or other  
4           administrative action, policy, or practice, includ-  
5           ing a Medical Assistance Manual transmittal or  
6           letter to State Medicaid directors) to impose  
7           any restrictions relating to a provision described  
8           in subparagraph (B) or (C) if such restrictions  
9           are more restrictive in any aspect than those  
10          applied to the respective provision as of the  
11          date specified in subparagraph (D) for such  
12          provision.

13                   (B) PROPOSED REGULATION RELATING TO  
14                   REDEFINITION OF MEDICAID OUTPATIENT HOS-  
15                   PITAL SERVICES.—The provision described in  
16                   this subparagraph is the proposed regulation re-  
17                   lating to clarification of outpatient clinic and  
18                   hospital facility services definition and upper  
19                   payment limit under the Medicaid program  
20                   published on September 28, 2007 (72 Federal  
21                   Register 55158) in its entirety.

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

1 (i) IN GENERAL.—Subject to clause  
2 (ii), the provision described in this sub-  
3 paragraph is the final regulation relating  
4 to health-care-related taxes under the Med-  
5 icaid program published on February 22,  
6 2008 (73 Federal Register 9685) in its en-  
7 tirety.

8 (ii) EXCEPTION.—The provision de-  
9 scribed in this subparagraph does not in-  
10 clude the portions of such regulation as re-  
11 late to the following:

12 (I) REDUCTION IN THRESH-  
13 OLD.—The reduction from 6 percent  
14 to 5.5 percent in the threshold applied  
15 under section 433.68(f)(3)(i) of title  
16 42, Code of Federal Regulations, for  
17 determining whether or not there is  
18 an indirect guarantee to hold a tax-  
19 payer harmless, as required to carry  
20 out section 1903(w)(4)(C)(ii) of the  
21 Social Security Act, as added by sec-  
22 tion 403 of the Medicare Improvement  
23 and Extension Act of 2006 (division  
24 B of Public Law 109–432).

1 (II) CHANGE IN DEFINITION OF  
2 MANAGED CARE.—The change in the  
3 definition of managed care as pro-  
4 posed in the revision of section  
5 433.56(a)(8) of title 42, Code of Fed-  
6 eral Regulations, as required to carry  
7 out section 1903(w)(7)(A)(viii) of the  
8 Social Security Act, as amended by  
9 section 6051 of the Deficit Reduction  
10 Act of 2005 (Public Law 109–171).

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

14 (i) subparagraph (B) is September 27,  
15 2007; or

16 (ii) subparagraph (C) is February 21,  
17 2008.

18 (b) RESTORATION OF ACCESS TO NOMINAL DRUG  
19 PRICING FOR CERTAIN CLINICS AND HEALTH CEN-  
20 TERS.—

21 (1) IN GENERAL.—Section 1927(c)(1)(D) of the  
22 Social Security Act (42 U.S.C. §1396r–8(c)(1)(D)),  
23 as added by section 6001(d)(2) of the Deficit Reduc-  
24 tion Act of 2005 (Public Law 109–171), is amend-  
25 ed—

1 (A) in clause (i)—

2 (i) by redesignating subclause (IV) as  
3 subclause (VI); and

4 (ii) by inserting after subclause (III)  
5 the following:

6 “(IV) An entity that—

7 “(aa) is described in section  
8 501(c)(3) of the Internal Rev-  
9 enue Code of 1986 and exempt  
10 from tax under section 501(a) of  
11 such Act or is State-owned or op-  
12 erated; and

13 “(bb) would be a covered en-  
14 tity described in section  
15 340(B)(a)(4) of the Public  
16 Health Service Act insofar as the  
17 entity provides the same type of  
18 services to the same type of pop-  
19 ulations as a covered entity de-  
20 scribed in such section provides,  
21 but does not receive funding  
22 under a provision of law referred  
23 to in such section.

24 “(V) A public or nonprofit entity,  
25 or an entity based at an institution of

1 higher learning whose primary pur-  
2 pose is to provide health care services  
3 to students of that institution, that  
4 provides a service or services de-  
5 scribed under section 1001(a) of the  
6 Public Health Service Act.”; and

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

9 “(iv) RULE OF CONSTRUCTION.—  
10 Nothing in this subparagraph shall be con-  
11 strued to alter any existing statutory or  
12 regulatory prohibition on services with re-  
13 spect to an entity described in subclause  
14 (IV) or (V) of clause (i), including the pro-  
15 hibition set forth in section 1008 of the  
16 Public Health Service Act.”.

17 (2) EFFECTIVE DATE.—The amendments made  
18 by this subsection shall take effect as if included in  
19 the amendment made by section 6001(d)(2) of the  
20 Deficit Reduction Act of 2005.

21 (c) ASSET VERIFICATION THROUGH ACCESS TO IN-  
22 FORMATION HELD BY FINANCIAL INSTITUTIONS.—

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

1           “ASSET VERIFICATION THROUGH ACCESS TO  
2 INFORMATION HELD BY FINANCIAL INSTITUTIONS

3           “SEC. 1940. (a) IMPLEMENTATION.—

4           “(1) IN GENERAL.—Subject to the provisions of  
5 this section, each State shall implement an asset  
6 verification program described in subsection (b), for  
7 purposes of determining or redetermining the eligi-  
8 bility of an individual for medical assistance under  
9 the State plan under this title.

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

12           “(A) submit not later than a deadline spec-  
13 ified by the Secretary consistent with paragraph  
14 (3), a State plan amendment under this title  
15 that describes how the State intends to imple-  
16 ment the asset verification program; and

17           “(B) provide for implementation of such  
18 program for eligibility determinations and rede-  
19 terminations made on or after 6 months after  
20 the deadline established for submittal of such  
21 plan amendment.

22           “(3) PHASE-IN.—

23           “(A) IN GENERAL.—

24           “(i) IMPLEMENTATION IN CURRENT  
25 ASSET VERIFICATION DEMO STATES.—The

1 Secretary shall require those States speci-  
2 fied in subparagraph (C) (to which an  
3 asset verification program has been applied  
4 before the date of the enactment of this  
5 section) to implement an asset verification  
6 program under this subsection by the end  
7 of fiscal year 2009.

8 “(ii) IMPLEMENTATION IN OTHER  
9 STATES.—The Secretary shall require  
10 other States to submit and implement an  
11 asset verification program under this sub-  
12 section in such manner as is designed to  
13 result in the application of such programs,  
14 in the aggregate for all such other States,  
15 to enrollment of approximately, but not  
16 less than, the following percentage of en-  
17 rollees, in the aggregate for all such other  
18 States, by the end of the fiscal year in-  
19 volved:

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

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

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

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

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

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

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

13                  “(D) CONSTRUCTION.—Nothing in sub-  
14                  paragraph (A)(ii) shall be construed as pre-  
15                  venting a State from requesting, and the Sec-  
16                  retary approving, the implementation of an  
17                  asset verification program in advance of the  
18                  deadline otherwise established under such sub-  
19                  paragraph.

20                  “(4) EXEMPTION OF TERRITORIES.—This sec-  
21                  tion shall only apply to the 50 States and the Dis-  
22                  trict of Columbia.

23                  “(b) ASSET VERIFICATION PROGRAM.—

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

4                   “(A) requires each applicant for, or recipi-  
5                   ent of, medical assistance under the State plan  
6                   under this title on the basis of being aged,  
7                   blind, or disabled to provide authorization by  
8                   such applicant or recipient (and any other per-  
9                   son whose resources are required by law to be  
10                  disclosed to determine the eligibility of the ap-  
11                  plicant or recipient for such assistance) for the  
12                  State to obtain (subject to the cost reimburse-  
13                  ment requirements of section 1115(a) of the  
14                  Right to Financial Privacy Act of 1978 but at  
15                  no cost to the applicant or recipient) from any  
16                  financial institution (within the meaning of sec-  
17                  tion 1101(1) of such Act) any financial record  
18                  (within the meaning of section 1101(2) of such  
19                  Act) held by the institution with respect to the  
20                  applicant or recipient (and such other person,  
21                  as applicable), whenever the State determines  
22                  the record is needed in connection with a deter-  
23                  mination with respect to such eligibility for (or  
24                  the amount or extent of) such medical assist-  
25                  ance; and

1           “(B) uses the authorization provided under  
2           subparagraph (A) to verify the financial re-  
3           sources of such applicant or recipient (and such  
4           other person, as applicable), in order to deter-  
5           mine or redetermine the eligibility of such appli-  
6           cant or recipient for medical assistance under  
7           the State plan.

8           “(2) PROGRAM DESCRIBED.—A program de-  
9           scribed in this paragraph is a program for verifying  
10          individual assets in a manner consistent with the ap-  
11          proach used by the Commissioner of Social Security  
12          under section 1631(e)(1)(B)(ii).

13          “(c) DURATION OF AUTHORIZATION.—Notwith-  
14          standing section 1104(a)(1) of the Right to Financial Pri-  
15          vacy Act of 1978, an authorization provided to a State  
16          under subsection (b)(1)(A) shall remain effective until the  
17          earliest of—

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

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

23                 “(3) the express revocation by the applicant or  
24                 recipient (or such other person described in sub-

1 section (b)(1)(A), as applicable) of the authorization,  
2 in a written notification to the State.

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

5 “(1) An authorization obtained by the State  
6 under subsection (b)(1) shall be considered to meet  
7 the requirements of the Right to Financial Privacy  
8 Act of 1978 for purposes of section 1103(a) of such  
9 Act, and need not be furnished to the financial insti-  
10 tution, notwithstanding section 1104(a) of such Act.

11 “(2) The certification requirements of section  
12 1103(b) of the Right to Financial Privacy Act of  
13 1978 shall not apply to requests by the State pursu-  
14 ant to an authorization provided under subsection  
15 (b)(1).

16 “(3) A request by the State pursuant to an au-  
17 thorization provided under subsection (b)(1) is  
18 deemed to meet the requirements of section  
19 1104(a)(3) of the Right to Financial Privacy Act of  
20 1978 and of section 1102 of such Act, relating to a  
21 reasonable description of financial records.

22 “(e) REQUIRED DISCLOSURE.—The State shall in-  
23 form any person who provides authorization pursuant to  
24 subsection (b)(1)(A) of the duration and scope of the au-  
25 thorization.

1       “(f) REFUSAL OR REVOCATION OF AUTHORIZA-  
2 TION.—If an applicant for, or recipient of, medical assist-  
3 ance under the State plan under this title (or such other  
4 person described in subsection (b)(1)(A), as applicable) re-  
5 fuses to provide, or revokes, any authorization made by  
6 the applicant or recipient (or such other person, as appli-  
7 cable) under subsection (b)(1)(A) for the State to obtain  
8 from any financial institution any financial record, the  
9 State may, on that basis, determine that the applicant or  
10 recipient is ineligible for medical assistance.

11       “(g) USE OF CONTRACTOR.—For purposes of imple-  
12 menting an asset verification program under this section,  
13 a State may select and enter into a contract with a public  
14 or private entity meeting such criteria and qualifications  
15 as the State determines appropriate, consistent with re-  
16 quirements in regulations relating to general contracting  
17 provisions and with section 1903(i)(2). In carrying out ac-  
18 tivities under such contract, such an entity shall be subject  
19 to the same requirements and limitations on use and dis-  
20 closure of information as would apply if the State were  
21 to carry out such activities directly.

22       “(h) TECHNICAL ASSISTANCE.—The Secretary shall  
23 provide States with technical assistance to aid in imple-  
24 mentation of an asset verification program under this sec-  
25 tion.

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

6       “(j) TREATMENT OF PROGRAM EXPENSES.—Not-  
7 withstanding any other provision of law, reasonable ex-  
8 penses of States in carrying out the program under this  
9 section shall be treated, for purposes of section 1903(a),  
10 in the same manner as State expenditures specified in  
11 paragraph (7) of such section.”.

12               (2) STATE PLAN REQUIREMENTS.—Section  
13 1902(a) of such Act (42 U.S.C. 1396a(a)) is amend-  
14 ed—

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

17                       (B) in paragraph (70) by striking the pe-  
18 riod at the end and inserting “; and”; and

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

21                       “(71) provide that the State will implement an  
22 asset verification program as required under section  
23 1940.”.

24               (3) WITHHOLDING OF FEDERAL MATCHING  
25 PAYMENTS FOR NONCOMPLIANT STATES.—Section

1 1903(i) of such Act (42 U.S.C. 1396b(i)) is amend-  
2 ed—

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

5 (B) in paragraph (23) by striking the pe-  
6 riod at the end and inserting “; or”; and

7 (C) by adding after paragraph (23) the fol-  
8 lowing new paragraph:

9 “(24) if a State is required to implement an  
10 asset verification program under section 1940 and  
11 fails to implement such program in accordance with  
12 such section, with respect to amounts expended by  
13 such State for medical assistance for individuals  
14 subject to asset verification under such section, un-  
15 less—

16 “(A) the State demonstrates to the Sec-  
17 retary’s satisfaction that the State made a good  
18 faith effort to comply;

19 “(B) not later than 60 days after the date  
20 of a finding that the State is in noncompliance,  
21 the State submits to the Secretary (and the  
22 Secretary approves) a corrective action plan to  
23 remedy such noncompliance; and

24 “(C) not later than 12 months after the  
25 date of such submission (and approval), the

1 State fulfills the terms of such corrective action  
2 plan.”.

3 (4) REPEAL.—Section 4 of Public Law 110–90  
4 is repealed.

5 SEC. 6002. LIMITATION ON MEDICARE EXCEPTION  
6 TO THE PROHIBITION ON CERTAIN PHYSICIAN REFER-  
7 RALS FOR HOSPITALS.—

8 (a) IN GENERAL.—Section 1877 of the Social Secu-  
9 rity Act (42 U.S.C. 1395nn) is amended—

10 (1) in subsection (d)(2)—

11 (A) in subparagraph (A), by striking  
12 “and” at the end;

13 (B) in subparagraph (B), by striking the  
14 period at the end and inserting “; and”; and

15 (C) by adding at the end the following new  
16 subparagraph:

17 “(C) in the case where the entity is a hos-  
18 pital, the hospital meets the requirements of  
19 paragraph (3)(D).”;

20 (2) in subsection (d)(3)—

21 (A) in subparagraph (B), by striking  
22 “and” at the end;

23 (B) in subparagraph (C), by striking the  
24 period at the end and inserting “; and”; and

1 (C) by adding at the end the following new  
2 subparagraph:

3 “(D) the hospital meets the requirements  
4 described in subsection (i)(1) not later than 18  
5 months after the date of the enactment of this  
6 subparagraph.”; and

7 (3) by adding at the end the following new sub-  
8 section:

9 “(i) REQUIREMENTS FOR HOSPITALS TO QUALIFY  
10 FOR HOSPITAL EXCEPTION TO OWNERSHIP OR INVEST-  
11 MENT PROHIBITION.—

12 “(1) REQUIREMENTS DESCRIBED.—For pur-  
13 poses of subsection (d)(3)(D), the requirements de-  
14 scribed in this paragraph for a hospital are as fol-  
15 lows:

16 “(A) PROVIDER AGREEMENT.—The hos-  
17 pital had—

18 “(i) physician ownership on Sep-  
19 tember 1, 2008; and

20 “(ii) a provider agreement under sec-  
21 tion 1866 in effect on such date.

22 “(B) LIMITATION ON EXPANSION OF FA-  
23 CILITY CAPACITY.—Except as provided in para-  
24 graph (3), the number of operating rooms, pro-  
25 cedure rooms, and beds of the hospital at any

1 time on or after the date of the enactment of  
2 this subsection are no greater than the number  
3 of operating rooms, procedure rooms, and beds  
4 as of such date.

5 “(C) PREVENTING CONFLICTS OF INTER-  
6 EST.—

7 “(i) The hospital submits to the Sec-  
8 retary an annual report containing a de-  
9 tailed description of—

10 “(I) the identity of each physi-  
11 cian owner and any other owners of  
12 the hospital; and

13 “(II) the nature and extent of all  
14 ownership interests in the hospital.

15 “(ii) The hospital has procedures in  
16 place to require that any referring physi-  
17 cian owner discloses to the patient being  
18 referred, by a time that permits the pa-  
19 tient to make a meaningful decision re-  
20 garding the receipt of care, as determined  
21 by the Secretary—

22 “(I) the ownership interest of  
23 such referring physician in the hos-  
24 pital; and

1                   “(II) if applicable, any such own-  
2                   ership interest of the treating physi-  
3                   cian.

4                   “(iii) The hospital does not condition  
5                   any physician ownership interests either di-  
6                   rectly or indirectly on the physician owner  
7                   making or influencing referrals to the hos-  
8                   pital or otherwise generating business for  
9                   the hospital.

10                  “(iv) The hospital discloses the fact  
11                  that the hospital is partially owned by phy-  
12                  sicians—

13                         “(I) on any public website for the  
14                         hospital; and

15                         “(II) in any public advertising  
16                         for the hospital.

17                  “(D) ENSURING BONA FIDE INVEST-  
18                  MENT.—

19                         “(i) Physician owners in the aggregate  
20                         do not own more than the greater of—

21                                 “(I) 40 percent of the total value  
22                                 of the investment interests held in the  
23                                 hospital or in an entity whose assets  
24                                 include the hospital; or

1                   “(II) the percentage of such total  
2                   value determined on the date of enact-  
3                   ment of this subsection.

4                   “(ii) Any ownership or investment in-  
5                   terests that the hospital offers to a physi-  
6                   cian owner are not offered on more favor-  
7                   able terms than the terms offered to a per-  
8                   son who is not a physician owner.

9                   “(iii) The hospital (or any investors in  
10                  the hospital) does not directly or indirectly  
11                  provide loans or financing for any physi-  
12                  cian owner investments in the hospital.

13                  “(iv) The hospital (or any investors in  
14                  the hospital) does not directly or indirectly  
15                  guarantee a loan, make a payment toward  
16                  a loan, or otherwise subsidize a loan, for  
17                  any individual physician owner or group of  
18                  physician owners that is related to acquir-  
19                  ing any ownership interest in the hospital.

20                  “(v) Investment returns are distrib-  
21                  uted to each investor in the hospital in an  
22                  amount that is directly proportional to the  
23                  ownership interest of such investor in the  
24                  hospital.

1           “(vi) Physician owners do not receive,  
2           directly or indirectly, any guaranteed re-  
3           ceipt of or right to purchase other business  
4           interests related to the hospital, including  
5           the purchase or lease of any property  
6           under the control of other investors in the  
7           hospital or located near the premises of the  
8           hospital.

9           “(vii) The hospital does not offer a  
10          physician owner the opportunity to pur-  
11          chase or lease any property under the con-  
12          trol of the hospital or any other investor in  
13          the hospital on more favorable terms than  
14          the terms offered to an individual who is  
15          not a physician owner.

16          “(E) PATIENT SAFETY.—

17               “(i) Insofar as the hospital admits a  
18               patient and does not have any physician  
19               available on the premises to provide serv-  
20               ices during all hours in which the hospital  
21               is providing services to such patient, before  
22               admitting the patient—

23                       “(I) the hospital discloses such  
24                       fact to a patient; and

1                   “(II) following such disclosure,  
2                   the hospital receives from the patient  
3                   a signed acknowledgment that the pa-  
4                   tient understands such fact.

5                   “(ii) The hospital has the capacity  
6                   to—

7                   “(I) provide assessment and ini-  
8                   tial treatment for patients; and

9                   “(II) refer and transfer patients  
10                  to hospitals with the capability to  
11                  treat the needs of the patient in-  
12                  volved.

13                  “(F) LIMITATION ON APPLICATION TO  
14                  CERTAIN CONVERTED FACILITIES.—The hos-  
15                  pital was not converted from an ambulatory  
16                  surgical center to a hospital on or after the date  
17                  of enactment of this subsection.

18                  “(2) PUBLICATION OF INFORMATION RE-  
19                  PORTED.—The Secretary shall publish, and update  
20                  on an annual basis, the information submitted by  
21                  hospitals under paragraph (1)(C)(i) on the public  
22                  Internet website of the Centers for Medicare & Med-  
23                  icaid Services.

24                  “(3) EXCEPTION TO PROHIBITION ON EXPAN-  
25                  SION OF FACILITY CAPACITY.—

1 “(A) PROCESS.—

2 “(i) ESTABLISHMENT.—The Secretary  
3 shall establish and implement a process  
4 under which an applicable hospital (as de-  
5 fined in subparagraph (E)) may apply for  
6 an exception from the requirement under  
7 paragraph (1)(B).

8 “(ii) OPPORTUNITY FOR COMMUNITY  
9 INPUT.—The process under clause (i) shall  
10 provide individuals and entities in the com-  
11 munity that the applicable hospital apply-  
12 ing for an exception is located with the op-  
13 portunity to provide input with respect to  
14 the application.

15 “(iii) TIMING FOR IMPLEMENTA-  
16 TION.—The Secretary shall implement the  
17 process under clause (i) on November 1,  
18 2009.

19 “(iv) REGULATIONS.—Not later than  
20 November 1, 2009, the Secretary shall pro-  
21 mulgate regulations to carry out the proc-  
22 ess under clause (i).

23 “(B) FREQUENCY.—The process described  
24 in subparagraph (A) shall permit an applicable

1 hospital to apply for an exception up to once  
2 every 2 years.

3 “(C) PERMITTED INCREASE.—

4 “(i) IN GENERAL.—Subject to clause  
5 (ii) and subparagraph (D), an applicable  
6 hospital granted an exception under the  
7 process described in subparagraph (A) may  
8 increase the number of operating rooms,  
9 procedure rooms, and beds of the applica-  
10 ble hospital above the baseline number of  
11 operating rooms, procedure rooms, and  
12 beds of the applicable hospital (or, if the  
13 applicable hospital has been granted a pre-  
14 vious exception under this paragraph,  
15 above the number of operating rooms, pro-  
16 cedure rooms, and beds of the hospital  
17 after the application of the most recent in-  
18 crease under such an exception).

19 “(ii) LIFETIME 100 PERCENT IN-  
20 CREASE LIMITATION.—The Secretary shall  
21 not permit an increase in the number of  
22 operating rooms, procedure rooms, and  
23 beds of an applicable hospital under clause  
24 (i) to the extent such increase would result  
25 in the number of operating rooms, proce-

1           dure rooms, and beds of the applicable  
2           hospital exceeding 200 percent of the base-  
3           line number of operating rooms, procedure  
4           rooms, and beds of the applicable hospital.

5           “(iii) BASELINE NUMBER OF OPER-  
6           ATING ROOMS, PROCEDURE ROOMS, AND  
7           BEDS.—In this paragraph, the term ‘base-  
8           line number of operating rooms, procedure  
9           rooms, and beds’ means the number of op-  
10          erating rooms, procedure rooms, and beds  
11          of the applicable hospital as of the date of  
12          enactment of this subsection.

13          “(D) INCREASE LIMITED TO FACILITIES  
14          ON THE MAIN CAMPUS OF THE HOSPITAL.—  
15          Any increase in the number of operating rooms,  
16          procedure rooms, and beds of an applicable hos-  
17          pital pursuant to this paragraph may only occur  
18          in facilities on the main campus of the applica-  
19          ble hospital.

20          “(E) APPLICABLE HOSPITAL.—In this  
21          paragraph, the term “applicable hospital”  
22          means a hospital—

23                 “(i) that is located in a county in  
24                 which the percentage increase in the popu-  
25                 lation during the most recent 5-year period

1 (as of the date of the application under  
2 subparagraph (A)) is at least 150 percent  
3 of the percentage increase in the popu-  
4 lation growth of the State in which the  
5 hospital is located during that period, as  
6 estimated by Bureau of the Census;

7 “(ii) whose annual percent of total in-  
8 patient admissions that represent inpatient  
9 admissions under the program under title  
10 XIX is equal to or greater than the aver-  
11 age percent with respect to such admis-  
12 sions for all hospitals located in the county  
13 in which the hospital is located;

14 “(iii) that does not discriminate  
15 against beneficiaries of Federal health care  
16 programs and does not permit physicians  
17 practicing at the hospital to discriminate  
18 against such beneficiaries;

19 “(iv) that is located in a State in  
20 which the average bed capacity in the  
21 State is less than the national average bed  
22 capacity; and

23 “(v) that has an average bed occu-  
24 pancy rate that is greater than the average

1           bed occupancy rate in the State in which  
2           the hospital is located.

3           “(F) PROCEDURE ROOMS.—In this sub-  
4           section, the term ‘procedure rooms’ includes  
5           rooms in which catheterizations, angiographies,  
6           angiograms, and endoscopies are performed, ex-  
7           cept such term shall not include emergency  
8           rooms or departments (exclusive of rooms in  
9           which catheterizations, angiographies,  
10          angiograms, and endoscopies are performed).

11          “(G) PUBLICATION OF FINAL DECI-  
12          SIONS.—Not later than 60 days after receiving  
13          a complete application under this paragraph,  
14          the Secretary shall publish in the Federal Reg-  
15          ister the final decision with respect to such ap-  
16          plication.

17          “(H) LIMITATION ON REVIEW.—There  
18          shall be no administrative or judicial review  
19          under section 1869, section 1878, or otherwise  
20          of the process under this paragraph (including  
21          the establishment of such process).

22          “(4) COLLECTION OF OWNERSHIP AND INVEST-  
23          MENT INFORMATION.—For purposes of subpara-  
24          graphs (A)(i) and (D)(i) of paragraph (1), the Sec-

1       retary shall collect physician ownership and invest-  
2       ment information for each hospital.

3               “(5) PHYSICIAN OWNER DEFINED.—For pur-  
4       poses of this subsection, the term ‘physician owner’  
5       means a physician (or an immediate family member  
6       of such physician) with a direct or an indirect own-  
7       ership interest in the hospital.”.

8       (b) ENFORCEMENT.—

9               (1) ENSURING COMPLIANCE.—The Secretary of  
10       Health and Human Services shall establish policies  
11       and procedures to ensure compliance with the re-  
12       quirements described in subsection (i)(1) of section  
13       1877 of the Social Security Act, as added by sub-  
14       section (a)(3), beginning on the date such require-  
15       ments first apply. Such policies and procedures may  
16       include unannounced site reviews of hospitals.

17              (2) AUDITS.—Beginning not later than January  
18       1, 2010, the Secretary of Health and Human Serv-  
19       ices shall conduct audits to determine if hospitals  
20       violate the requirements referred to in paragraph  
21       (1).

22       SEC. 6003. Medicare Improvement Fund.—

23       Title XVIII of the Social Security Act (42 U.S.C.  
24       1395 et seq.) is amended by adding at the end the fol-  
25       lowing new section:

1                   “MEDICARE IMPROVEMENT FUND

2           “SEC. 1898. (a) ESTABLISHMENT.—The Secretary  
3 shall establish under this title a Medicare Improvement  
4 Fund (in this section referred to as the ‘Fund’) which  
5 shall be available to the Secretary to make improvements  
6 under the original fee-for-service program under parts A  
7 and B for individuals entitled to, or enrolled for, benefits  
8 under part A or enrolled under part B.

9           “(b) FUNDING.—

10           “(1) IN GENERAL.—There shall be available to  
11 the Fund, for expenditures from the Fund for serv-  
12 ices furnished during fiscal year 2014,  
13 \$3,340,000,000.

14           “(2) PAYMENT FROM TRUST FUNDS.—The  
15 amount specified under paragraph (1) shall be avail-  
16 able to the Fund, as expenditures are made from the  
17 Fund, from the Federal Hospital Insurance Trust  
18 Fund and the Federal Supplementary Medical In-  
19 surance Trust Fund in such proportion as the Sec-  
20 retary determines appropriate.

21           “(3) FUNDING LIMITATION.—Amounts in the  
22 Fund shall be available in advance of appropriations  
23 but only if the total amount obligated from the  
24 Fund does not exceed the amount available to the  
25 Fund under paragraph (1). The Secretary may obli-

1       gate funds from the Fund only if the Secretary de-  
2       termines (and the Chief Actuary of the Centers for  
3       Medicare & Medicaid Services and the appropriate  
4       budget officer certify) that there are available in the  
5       Fund sufficient amounts to cover all such obligations  
6       incurred consistent with the previous sentence.”.

7       SEC. 6004. MORATORIUM ON AUGUST 17, 2007 CMS  
8       DIRECTIVE. Notwithstanding any other provision of law,  
9       the Secretary of Health and Human Services shall not,  
10      prior to April 1, 2009, finalize, implement, enforce, or oth-  
11      erwise take any action to give effect to any or all compo-  
12      nents of the State Health Official Letter 07–001, dated  
13      August 17, 2007, issued by the Director of the Center for  
14      Medicaid and State Operations in the Centers for Medi-  
15      care & Medicaid Services regarding certain requirements  
16      under the State Children’s Health Insurance Program  
17      (CHIP) relating to the prevention of the substitution of  
18      health benefits coverage for children (commonly referred  
19      to as “crowd-out”) and the enforcement of medical sup-  
20      port orders (or to any similar administrative actions that  
21      reflect the same or similar policies set forth in such letter).  
22      Any change made on or after August 17, 2007, to a Med-  
23      icaid or CHIP State plan or waiver to implement, conform  
24      to, or otherwise adhere to the requirements or policies in  
25      such letter shall not apply prior to April 1, 2009.

1       SEC. 6005. ADJUSTMENT TO PAQI FUND. Section  
2 1848(l)(2) of the Social Security Act (42 U.S.C. 1395w-  
3 4(l)(2)), as amended by section 101(a)(2) of the Medicare,  
4 Medicaid, and SCHIP Extension Act of 2007 (Public Law  
5 110-173), is amended—

6           (1) in subparagraph (A)(i)—

7               (A) in subclause (III), by striking  
8               “\$4,960,000,000” and inserting  
9               “\$3,940,000,000”; and

10           (B) by adding at the end the following new  
11           subclause:

12                       “(IV) For expenditures during  
13                       2014, an amount equal to  
14                       \$3,750,000,000.”;

15           (2) in subparagraph (A)(ii), by adding at the  
16           end the following new subclause:

17                       “(IV) 2014.—The amount avail-  
18                       able for expenditures during 2014  
19                       shall only be available for an adjust-  
20                       ment to the update of the conversion  
21                       factor under subsection (d) for that  
22                       year.”; and

23           (3) in subparagraph (B)—

24               (A) in clause (ii), by striking “and” at the  
25               end;

1 (B) in clause (iii), by striking the period at  
2 the end and inserting “; and”; and

3 (C) by adding at the end the following new  
4 clause:

5 “(iv) 2014 for payment with respect  
6 to physicians’ services furnished during  
7 2014.”.

8 TITLE VII—ACCOUNTABILITY AND  
9 COMPETITION IN GOVERNMENT CONTRACTING  
10 CHAPTER 1—CLOSE THE CONTRACTOR FRAUD  
11 LOOPHOLE

12 SHORT TITLE

13 SEC. 7101. This chapter may be cited as the “Close  
14 the Contractor Fraud Loophole Act”.

15 REVISION OF THE FEDERAL ACQUISITION REGULATION

16 SEC. 7102. The Federal Acquisition Regulation shall  
17 be amended within 180 days after the date of the enact-  
18 ment of this Act pursuant to FAR Case 2007–006 (as  
19 published at 72 Fed Reg. 64019, November 14, 2007) or  
20 any follow-on FAR case to include provisions that require  
21 timely notification by Federal contractors of violations of  
22 Federal criminal law or overpayments in connection with  
23 the award or performance of covered contracts or sub-  
24 contracts, including those performed outside the United  
25 States and those for commercial items.

## 1 DEFINITION

2 SEC. 7103. In this chapter, the term “covered con-  
3 tract” means any contract in an amount greater than  
4 \$5,000,000 and more than 120 days in duration.

5 CHAPTER 2—GOVERNMENT FUNDING  
6 TRANSPARENCY

## 7 SHORT TITLE

8 SEC. 7201. This chapter may be cited as the “Gov-  
9 ernment Funding Transparency Act of 2008”.

10 FINANCIAL DISCLOSURE REQUIREMENTS FOR CERTAIN  
11 RECIPIENTS OF FEDERAL AWARDS

12 SEC. 7202. (a) DISCLOSURE REQUIREMENTS.—Sec-  
13 tion 2(b)(1) of the Federal Funding Accountability and  
14 Transparency Act (Public Law 109–282; 31 U.S.C. 6101  
15 note) is amended—

16 (1) by striking “and” at the end of subpara-  
17 graph (E);

18 (2) by redesignating subparagraph (F) as sub-  
19 paragraph (G); and

20 (3) by inserting after subparagraph (E) the fol-  
21 lowing new subparagraph:

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

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

1                   “(I) 80 percent or more of its an-  
2                   nual gross revenues in Federal  
3                   awards; and

4                   “(II) \$25,000,000 or more in an-  
5                   nual gross revenues from Federal  
6                   awards; and

7                   “(ii) the public does not have access  
8                   to information about the compensation of  
9                   the senior executives of the entity through  
10                  periodic reports filed under section 13(a)  
11                  or 15(d) of the Securities Exchange Act of  
12                  1934 (15 U.S.C. 78m(a), 78o(d)) or sec-  
13                  tion 6104 of the Internal Revenue Code of  
14                  1986.”.

15                  (b) REGULATIONS REQUIRED.—The Director of the  
16                  Office of Management and Budget shall promulgate regu-  
17                  lations to implement the amendment made by this chapter.  
18                  Such regulations shall include a definition of “total com-  
19                  pensation” that is consistent with regulations of the Secu-  
20                  rities and Exchange Commission at section 402 of part  
21                  229 of title 17 of the Code of Federal Regulations (or any  
22                  subsequent regulation).

1           **TITLE VIII—EMERGENCY**  
2           **AGRICULTURE RELIEF**

3 **SEC. 8001. DEFINITIONS.**

4           In this title:

5           (1) **AGRICULTURAL EMPLOYMENT.**—The term  
6           “agricultural employment” means any service or ac-  
7           tivity that is considered to be agricultural under sec-  
8           tion 3(f) of the Fair Labor Standards Act of 1938  
9           (29 U.S.C. 203(f)) or agricultural labor under sec-  
10          tion 3121(g) of the Internal Revenue Code of 1986  
11          or the performance of agricultural labor or services  
12          described in section 101(a)(15)(H)(ii)(a) of the Im-  
13          migration and Nationality Act (8 U.S.C.  
14          1101(a)(15)(H)(ii)(a)).

15          (2) **DEPARTMENT.**—The term “Department”  
16          means the Department of Homeland Security.

17          (3) **EMERGENCY AGRICULTURAL WORKER STA-**  
18          **TUS.**—The term “emergency agricultural worker sta-  
19          tus” means the status of an alien who has been law-  
20          fully admitted into the United States for temporary  
21          residence under section 8011(a).

22          (4) **EMPLOYER.**—The term “employer” means  
23          any person or entity, including any farm labor con-  
24          tractor and any agricultural association, that em-  
25          ploys workers in agricultural employment.

1           (5) SECRETARY.—Except as otherwise provided,  
2           the term “Secretary” means the Secretary of Home-  
3           land Security.

4           (6) WORK DAY.—The term “work day” means  
5           any day in which the individual is employed 5.75 or  
6           more hours in agricultural employment.

7   **SEC. 8002. EFFECTIVE DATE.**

8           (a) IN GENERAL.—Except as provided in subsection  
9           (b), this title shall take effect on the date of the enactment  
10          of this Act.

11          (b) EXCEPTION.—Sections 8021 and 8031 shall take  
12          effect on the date that is 1 year after the date of the enact-  
13          ment of this Act.

14                           **Subtitle A—Emergency**  
15                           **Agricultural Workers**

16   **SEC. 8011. REQUIREMENTS FOR EMERGENCY AGRICUL-**  
17                           **TURAL WORKER STATUS.**

18          (a) REQUIREMENT TO GRANT EMERGENCY AGRICUL-  
19          TURAL WORKER STATUS.—Notwithstanding any other  
20          provision of law, the Secretary shall, pursuant to the re-  
21          quirements of this section, grant emergency agricultural  
22          worker status to an alien who qualifies under this section  
23          if the Secretary determines that the alien—

24                  (1) during the 48-month period ending on De-  
25                  cember 31, 2007—

1           (A) performed agricultural employment in  
2           the United States for at least 863 hours or 150  
3           work days; or

4           (B) earned at least \$7,000 from agricul-  
5           tural employment;

6           (2) applied for emergency agricultural worker  
7           status during the 18-month application period begin-  
8           ning on the first day of the seventh month that be-  
9           gins after the date of the enactment of this Act;

10          (3) is otherwise admissible to the United States  
11          under section 212 of the Immigration and Nation-  
12          ality Act (8 U.S.C. 1182), except as otherwise pro-  
13          vided under section 8014; and

14          (4) has not been convicted of any felony or a  
15          misdemeanor, an element of which involves bodily in-  
16          jury, threat of serious bodily injury, or damage to  
17          property in excess of \$500.

18          (b) **AUTHORIZED TRAVEL.**—An alien who is granted  
19          emergency agricultural worker status is authorized to  
20          travel outside the United States (including commuting to  
21          the United States from a residence in a foreign country)  
22          in the same manner as an alien lawfully admitted for per-  
23          manent residence.

24          (c) **AUTHORIZED EMPLOYMENT.**—The Secretary  
25          shall provide an alien who is granted emergency agricul-

1 tural worker status an employment authorized endorse-  
2 ment or other appropriate work permit, in the same man-  
3 ner as an alien lawfully admitted for permanent residence.

4 (d) TERMINATION OF EMERGENCY AGRICULTURAL  
5 WORKER STATUS.—The Secretary shall terminate emer-  
6 gency agricultural worker status if—

7 (1) the Secretary determines that the alien is  
8 deportable;

9 (2) the Secretary finds, by a preponderance of  
10 the evidence, that the adjustment to emergency agri-  
11 cultural worker status was the result of fraud or  
12 willful misrepresentation (as described in section  
13 212(a)(6)(C)(i) of the Immigration and Nationality  
14 Act (8 U.S.C. 1182(a)(6)(C)(i)));

15 (3) the alien—

16 (A) commits an act that makes the alien  
17 inadmissible to the United States as an immi-  
18 grant, except as provided under section 8014;

19 (B) is convicted of a felony or at least 3  
20 misdemeanors committed in the United States;

21 (C) is convicted of an offense, an element  
22 of which involves bodily injury, threat of serious  
23 bodily injury, or harm to property in excess of  
24 \$500; or

1           (D) fails to pay any applicable Federal tax  
2           liability pursuant to section 8012(d); or

3           (4) the Secretary determines that the alien has  
4           not fulfilled the work requirement described in sub-  
5           section (e) during any 1-year period in which the  
6           alien was in such status and the Secretary has not  
7           waived such requirement under subsection (e)(3).

8           (e) WORK REQUIREMENT.—

9           (1) IN GENERAL.—An alien shall perform at  
10          least 100 work days of agricultural employment per  
11          year to maintain emergency agricultural worker sta-  
12          tus under this section.

13          (2) PROOF.—An alien may demonstrate compli-  
14          ance with the requirement under paragraph (1) by  
15          submitting—

16                (A) the record of employment described in  
17                paragraph (4); or

18                (B) the documentation described in section  
19                8013(c)(1).

20          (3) WAIVER FOR EXTRAORDINARY CIR-  
21          CUMSTANCES.—

22                (A) IN GENERAL.—The Secretary may  
23                waive the requirement under paragraph (1) for  
24                any year in which the alien was unable to work  
25                in agricultural employment due to—

1 (i) pregnancy, injury, or disease, if the  
2 alien can establish such pregnancy, dis-  
3 abling injury, or disease through medical  
4 records;

5 (ii) illness, disease, or other special  
6 needs of a minor child, if the alien can es-  
7 tablish such illness, disease, or special  
8 needs through medical records;

9 (iii) severe weather conditions that  
10 prevented the alien from engaging in agri-  
11 cultural employment for a significant pe-  
12 riod of time; or

13 (iv) termination from agricultural em-  
14 ployment without just cause, if the alien  
15 establishes that he or she was unable to  
16 find alternative agricultural employment  
17 after a reasonable job search.

18 (B) LIMITATION.—A waiver granted under  
19 subparagraph (A)(iv) shall not be conclusive,  
20 binding, or admissible in a separate or subse-  
21 quent action or proceeding between the em-  
22 ployee and the employee's current or prior em-  
23 ployer.

24 (4) RECORD OF EMPLOYMENT.—

1           (A) REQUIREMENT.—Each employer of an  
2 alien granted emergency agricultural worker  
3 status shall annually provide—

4           (i) a written record of employment to  
5 the alien; and

6           (ii) a copy of such record to the Sec-  
7 retary.

8           (B) CIVIL PENALTIES.—

9           (i) IN GENERAL.—If the Secretary  
10 finds, after notice and opportunity for a  
11 hearing, that an employer of an alien  
12 granted emergency agricultural worker sta-  
13 tus has failed to provide the record of em-  
14 ployment required under subparagraph (A)  
15 or has provided a false statement of mate-  
16 rial fact in such a record, the employer  
17 shall be subject to a civil money penalty in  
18 an amount not to exceed \$1,000 per viola-  
19 tion.

20           (ii) LIMITATION.—The penalty appli-  
21 cable under clause (i) for failure to provide  
22 records shall not apply unless the alien has  
23 provided the employer with evidence of em-  
24 ployment authorization granted under this  
25 section.

1           (f) REQUIRED FEATURES OF IDENTITY CARD.—The  
2 Secretary shall provide each alien granted emergency agri-  
3 cultural worker status, and the spouse and any child of  
4 each such alien residing in the United States, with a card  
5 that contains—

6           (1) an encrypted, machine-readable, electronic  
7 identification strip that is unique to the alien to  
8 whom the card is issued;

9           (2) biometric identifiers, including fingerprints  
10 and a digital photograph; and

11           (3) physical security features designed to pre-  
12 vent tampering, counterfeiting, or duplication of the  
13 card for fraudulent purposes.

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

16           (h) MAXIMUM NUMBER.—The Secretary may not  
17 issue more than 1,350,000 emergency agricultural worker  
18 cards during the 5-year period beginning on the date of  
19 the enactment of this Act.

20           (i) MAXIMUM LENGTH OF EMERGENCY AGRICUL-  
21 TURAL WORKER STATUS.—Emergency agricultural work-  
22 er status granted under this section shall continue until  
23 the earlier of—

24           (1) the date on which such status is terminated  
25 pursuant to subsection (d); or

1           (2) 5 years after the date on which such status  
2           is granted.

3 **SEC. 8012. TREATMENT OF ALIENS GRANTED EMERGENCY**  
4                                   **AGRICULTURAL WORKER STATUS.**

5           (a) IN GENERAL.—Except as otherwise provided  
6 under this section, an alien granted emergency agricul-  
7 tural worker status (including a spouse or child granted  
8 derivative status) shall be considered to be an alien law-  
9 fully admitted for permanent residence for purposes of any  
10 law other than any provision of the Immigration and Na-  
11 tionality Act (8 U.S.C. 1101 et seq.).

12           (b) INELIGIBILITY FOR CERTAIN FEDERAL PUBLIC  
13 BENEFITS.—An alien granted emergency agricultural  
14 worker status (including a spouse or child granted deriva-  
15 tive status) shall not be eligible, by reason of such status,  
16 for any form of assistance or benefit described in section  
17 403(a) of the Personal Responsibility and Work Oppor-  
18 tunity Reconciliation Act of 1996 (8 U.S.C. 1613(a))  
19 while in such status.

20           (c) FEDERAL TAX LIABILITY APPLIES.—

21           (1) IN GENERAL.—An alien granted emergency  
22 agricultural worker status shall pay any applicable  
23 Federal tax liability, including penalties and interest,  
24 owed for any year during the period of employment  
25 required under section 8011(e) for which the statu-

1 tory period for assessment of any deficiency for such  
2 taxes has not expired.

3 (2) IRS COOPERATION.—The Secretary of the  
4 Treasury shall establish rules and procedures under  
5 which the Commissioner of Internal Revenue shall  
6 provide documentation to an alien upon request to  
7 establish the payment of all taxes required under  
8 this subsection.

9 (d) TREATMENT OF SPOUSES AND MINOR CHIL-  
10 DREN.—

11 (1) GRANTING OF STATUS AND REMOVAL.—The  
12 Secretary shall grant derivative status to the alien  
13 spouse and any minor child residing in the United  
14 States of an alien granted emergency agricultural  
15 worker status and shall not remove such derivative  
16 spouse or child during the period in which the prin-  
17 cipal alien maintains such status, except as provided  
18 in paragraph (4). A grant of derivative status to  
19 such a spouse or child under this subparagraph shall  
20 not decrease the number of aliens who may receive  
21 emergency agricultural worker status under section  
22 8011(h).

23 (2) TRAVEL.—The derivative spouse and any  
24 minor child of an alien granted emergency agricul-  
25 tural worker status may travel outside the United

1 States in the same manner as an alien lawfully ad-  
2 mitted for permanent residence.

3 (3) EMPLOYMENT.—The derivative spouse of  
4 an alien granted emergency agricultural worker sta-  
5 tus may apply to the Secretary for a work permit to  
6 authorize such spouse to engage in any lawful em-  
7 ployment in the United States while such alien  
8 maintains emergency agricultural worker status.

9 (4) GROUNDS FOR DENIAL OF ADJUSTMENT OF  
10 STATUS AND REMOVAL.—The Secretary shall deny  
11 an alien spouse or child adjustment of status under  
12 paragraph (1) and shall remove such spouse or child  
13 under section 240 of the Immigration and Nation-  
14 ality Act (8 U.S.C. 1229a) if the spouse or child—

15 (A) commits an act that makes the alien  
16 spouse or child inadmissible to the United  
17 States under section 212 of such Act (8 U.S.C.  
18 1182), except as provided under section 8014;

19 (B) is convicted of a felony or 3 or more  
20 misdemeanors committed in the United States;  
21 or

22 (C) is convicted of an offense, an element  
23 of which involves bodily injury, threat of serious  
24 bodily injury, or harm to property in excess of  
25 \$500.

1           (e) ADJUSTMENT OF STATUS.—Nothing in this Act  
2 may be construed to prevent an alien from seeking adjust-  
3 ment of status in accordance with any other provision of  
4 law if the alien is otherwise eligible for such adjustment  
5 of status.

6 **SEC. 8013. APPLICATIONS.**

7           (a) SUBMISSION.—Applications for emergency agri-  
8 cultural worker status may be submitted to—

9                   (1) the Secretary, if the applicant is rep-  
10 resented by an attorney or a nonprofit religious,  
11 charitable, social service, or similar organization rec-  
12 ognized by the Board of Immigration Appeals under  
13 section 292.2 of title 8, Code of Federal Regula-  
14 tions; or

15                   (2) a qualified designated entity if the applicant  
16 consents to the forwarding of the application to the  
17 Secretary.

18           (b) QUALIFIED DESIGNATED ENTITY DEFINED.—In  
19 this section, the term “qualified designated entity”  
20 means—

21                   (1) a qualified farm labor organization or an  
22 association of employers designated by the Sec-  
23 retary; or

24                   (2) any such other person designated by the  
25 Secretary if the Secretary determines such person is

1 qualified and has substantial experience, dem-  
2 onstrated competence, and a history of long-term in-  
3 volvement in the preparation and submission of ap-  
4 plications for adjustment of status under section  
5 209, 210, or 245 of the Immigration and Nationality  
6 Act (8 U.S.C. 1159, 1160, and 1255), the Act enti-  
7 tled “An Act to adjust the status of Cuban refugees  
8 to that of lawful permanent residents of the United  
9 States, and for other purposes”, approved November  
10 2, 1966 (Public Law 89–732; 8 U.S.C. 1255 note),  
11 Public Law 95–145 (8 U.S.C. 1255 note), or the  
12 Immigration Reform and Control Act of 1986 (Pub-  
13 lic Law 99–603; 100 Stat. 3359) or any amendment  
14 made by that Act.

15 (c) PROOF OF ELIGIBILITY.—

16 (1) IN GENERAL.—An alien may establish that  
17 the alien meets the requirement of subsections (a)(1)  
18 and (e)(1) of section 8011 through government em-  
19 ployment records or records supplied by employers  
20 or collective bargaining organizations, and such  
21 other reliable documentation as the alien may pro-  
22 vide. The Secretary shall establish special procedures  
23 to properly credit work in cases in which an alien  
24 was employed under an assumed name.

25 (2) DOCUMENTATION OF WORK HISTORY.—

1           (A) BURDEN OF PROOF.—An alien apply-  
2           ing for emergency agricultural worker status  
3           has the burden of proving by a preponderance  
4           of the evidence that the alien has worked the  
5           requisite number of hours or days required  
6           under section 8011(a)(1).

7           (B) TIMELY PRODUCTION OF RECORDS.—  
8           If an employer or farm labor contractor employ-  
9           ing such an alien has kept proper and adequate  
10          records respecting such employment, the alien's  
11          burden of proof under subparagraph (A) may  
12          be met by securing timely production of those  
13          records under regulations to be promulgated by  
14          the Secretary.

15          (C) SUFFICIENT EVIDENCE.—An alien  
16          may meet the burden of proof under subpara-  
17          graph (A) to establish that the alien has per-  
18          formed the days or hours of work required  
19          under section 8011(a)(1) by producing suffi-  
20          cient evidence to show the extent of that em-  
21          ployment as a matter of just and reasonable in-  
22          ference.

23          (d) APPLICATIONS SUBMITTED TO QUALIFIED DES-  
24          IGNATED ENTITIES.—

1           (1) REQUIREMENTS.—Each qualified des-  
2           ignated entity shall agree—

3                   (A) to forward to the Secretary an applica-  
4                   tion submitted to that entity pursuant to sub-  
5                   section (a)(2) if the applicant has consented to  
6                   such forwarding;

7                   (B) not to forward to the Secretary any  
8                   such application if the applicant has not con-  
9                   sented to such forwarding; and

10                   (C) to assist an alien in obtaining docu-  
11                   mentation of the alien's work history, if the  
12                   alien requests such assistance.

13           (2) NO AUTHORITY TO MAKE DETERMINA-  
14           TIONS.—No qualified designated entity may make a  
15           determination required under this title to be made  
16           by the Secretary.

17           (e) LIMITATION ON ACCESS TO INFORMATION.—Files  
18           and records collected or compiled by a qualified designated  
19           entity for the purposes of this section are confidential and  
20           the Secretary shall not have access to such a file or record  
21           relating to an alien without the consent of the alien, except  
22           as allowed by a court order issued pursuant to subsection  
23           (f).

24           (f) CONFIDENTIALITY OF INFORMATION.—

1           (1) IN GENERAL.—Except as otherwise pro-  
2           vided in this section, the Secretary or any other offi-  
3           cial or employee of the Department or a bureau or  
4           agency of the Department is prohibited from—

5                   (A) using information furnished by the ap-  
6                   plicant pursuant to an application filed under  
7                   this title, the information provided by an appli-  
8                   cant to a qualified designated entity, or any in-  
9                   formation provided by an employer or former  
10                  employer for any purpose other than to make a  
11                  determination on the application or for impos-  
12                  ing the penalties described in subsection (g);

13                  (B) making any publication in which the  
14                  information furnished by any particular indi-  
15                  vidual can be identified; or

16                  (C) permitting a person other than a  
17                  sworn officer or employee of the Department or  
18                  a bureau or agency of the Department or, with  
19                  respect to applications filed with a qualified  
20                  designated entity, that qualified designated en-  
21                  tity, to examine individual applications.

22           (2) REQUIRED DISCLOSURES.—The Secretary  
23           shall provide the information furnished under this  
24           title or any other information derived from such fur-  
25           nished information to—

1 (A) a duly recognized law enforcement en-  
2 tity in connection with a criminal investigation  
3 or prosecution, if such information is requested  
4 in writing by such entity; and

5 (B) an official coroner, for purposes of af-  
6 firmatively identifying a deceased individual,  
7 whether or not the death of such individual re-  
8 sulted from a crime.

9 (3) CONSTRUCTION.—

10 (A) IN GENERAL.—Nothing in this sub-  
11 section shall be construed to limit the use, or  
12 release, for immigration enforcement purposes  
13 or law enforcement purposes, of information  
14 contained in files or records of the Department  
15 pertaining to an application filed under this sec-  
16 tion, other than information furnished by an  
17 applicant pursuant to the application, or any  
18 other information derived from the application,  
19 that is not available from any other source.

20 (B) CRIMINAL CONVICTIONS.—Notwith-  
21 standing any other provision of this subsection,  
22 information concerning whether the alien apply-  
23 ing for emergency agricultural worker status  
24 has been convicted of a crime at any time may

1           be used or released for immigration enforce-  
2           ment or law enforcement purposes.

3           (4) CRIME.—Any person who knowingly uses,  
4           publishes, or permits information to be examined in  
5           violation of this subsection shall be subject to a fine  
6           in an amount not to exceed \$10,000.

7           (g) PENALTIES FOR FALSE STATEMENTS IN APPLI-  
8           CATIONS.—

9           (1) CRIMINAL PENALTY.—Any person who—

10           (A) files an application for emergency agri-  
11           cultural worker status and knowingly and will-  
12           fully falsifies, conceals, or covers up a material  
13           fact or makes any false, fictitious, or fraudulent  
14           statements or representations, or makes or uses  
15           any false writing or document knowing the  
16           same to contain any false, fictitious, or fraudu-  
17           lent statement or entry, or

18           (B) creates or supplies a false writing or  
19           document for use in making such an applica-  
20           tion,

21           shall be fined in accordance with title 18, United  
22           States Code, imprisoned not more than 5 years, or  
23           both.

24           (2) INADMISSIBILITY.—An alien who is con-  
25           victed of a crime under paragraph (1) shall be con-

1       sidered to be inadmissible to the United States on  
2       the ground described in section 212(a)(6)(C)(i) of  
3       the Immigration and Nationality Act (8 U.S.C.  
4       1182(a)(6)(C)(i)).

5       (h) ELIGIBILITY FOR LEGAL SERVICES.—Section  
6       504(a)(11) of Public Law 104–134 (110 Stat. 1321–53  
7       et seq.) shall not be construed to prevent a recipient of  
8       funds under the Legal Services Corporation Act (42  
9       U.S.C. 2996 et seq.) from providing legal assistance di-  
10      rectly related to an application for emergency agricultural  
11      worker status.

12      (i) APPLICATION FEES.—

13           (1) FEE SCHEDULE.—The Secretary shall pro-  
14      vide for a schedule of fees that—

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

18           (B) may be charged by qualified des-  
19      ignated entities to help defray the costs of serv-  
20      ices provided to such applicants.

21      (2) PROHIBITION ON EXCESS FEES BY QUALI-  
22      FIED DESIGNATED ENTITIES.—A qualified des-  
23      ignated entity may not charge any fee in excess of,  
24      or in addition to, the fees authorized under para-  
25      graph (1)(B) for services provided to applicants.

1 (3) DISPOSITION OF FEES.—

2 (A) IN GENERAL.—There is established in  
3 the general fund of the Treasury a separate ac-  
4 count, which shall be known as the “Agricul-  
5 tural Worker Immigration Status Adjustment  
6 Account”. Notwithstanding any other provision  
7 of law, there shall be deposited as offsetting re-  
8 ceipts into the account all fees collected under  
9 paragraph (1)(A).

10 (B) USE OF FEES FOR APPLICATION PROC-  
11 ESSING.—Amounts deposited in the “Agricul-  
12 tural Worker Immigration Status Adjustment  
13 Account” shall remain available to the Sec-  
14 retary until expended for processing applica-  
15 tions for emergency agricultural worker status.

16 **SEC. 8014. WAIVER OF NUMERICAL LIMITATIONS AND CER-**  
17 **TAIN GROUNDS FOR INADMISSIBILITY.**

18 (a) WAIVER OF CERTAIN GROUNDS OF INADMIS-  
19 SIBILITY.—In the determination of an alien’s eligibility for  
20 emergency agricultural worker status, the following rules  
21 shall apply:

22 (1) GROUNDS OF EXCLUSION NOT APPLICA-  
23 BLE.—The provisions of paragraphs (5), (6)(A), (7),  
24 and (9) of section 212(a) of the Immigration and  
25 Nationality Act (8 U.S.C. 1182(a)) shall not apply.

1 (2) WAIVER OF OTHER GROUNDS.—

2 (A) IN GENERAL.—Except as provided in  
3 subparagraph (B), the Secretary may waive any  
4 other provision of such section 212(a) in the  
5 case of individual aliens for humanitarian pur-  
6 poses, to ensure family unity, or if otherwise in  
7 the public interest.

8 (B) GROUNDS THAT MAY NOT BE  
9 WAIVED.—Paragraphs (2)(A), (2)(B), (2)(C),  
10 (2)(D), (2)(G), (2)(H), (2)(I), (3), and (4) of  
11 such section 212(a) may not be waived by the  
12 Secretary under subparagraph (A).

13 (C) CONSTRUCTION.—Nothing in this  
14 paragraph shall be construed as affecting the  
15 authority of the Secretary other than under this  
16 subparagraph to waive provisions of such sec-  
17 tion 212(a).

18 (3) SPECIAL RULE FOR DETERMINATION OF  
19 PUBLIC CHARGE.—An alien is not ineligible for  
20 emergency agricultural worker status by reason of a  
21 ground of inadmissibility under section 212(a)(4) of  
22 the Immigration and Nationality Act (8 U.S.C.  
23 1182(a)(4)) if the alien demonstrates a history of  
24 employment in the United States evidencing self-  
25 support without reliance on public cash assistance.

1           (b) TEMPORARY STAY OF REMOVAL AND WORK AU-  
2 THORIZATION FOR CERTAIN APPLICANTS.—

3           (1) BEFORE APPLICATION PERIOD.—Effective  
4 on the date of the enactment of this Act, an alien  
5 who is apprehended before the beginning of the ap-  
6 plication period described in section 8011(a)(2) and  
7 who can establish a nonfrivolous case of eligibility  
8 for emergency agricultural worker status (but for  
9 the fact that the alien may not apply for such status  
10 until the beginning of such period)—

11           (A) may not be removed until the alien has  
12 had the opportunity during the first 30 days of  
13 the application period to complete the filing of  
14 an application for such status; and

15           (B) shall be granted authorization to en-  
16 gage in employment in the United States and  
17 be provided an employment authorized endorse-  
18 ment or other appropriate work permit for such  
19 purpose.

20           (2) DURING APPLICATION PERIOD.—An alien  
21 who presents a nonfrivolous application for emer-  
22 gency agricultural worker status during the applica-  
23 tion period described in section 8011(a)(2), includ-  
24 ing an alien who files such an application not later  
25 than 30 days after the alien's apprehension—

1           (A) may not be removed until a final deter-  
2           mination on the application has been made in  
3           accordance with this section; and

4           (B) shall be granted authorization to en-  
5           gage in employment in the United States and  
6           be provided an employment authorized endorse-  
7           ment or other appropriate work permit for such  
8           purpose.

9 **SEC. 8015. ADMINISTRATIVE AND JUDICIAL REVIEW.**

10       (a) IN GENERAL.—There shall be no administrative  
11       or judicial review of a determination respecting an applica-  
12       tion for emergency agricultural worker status under this  
13       title.

14       (b) ADMINISTRATIVE REVIEW.—

15           (1) SINGLE LEVEL OF ADMINISTRATIVE APPEL-  
16       LATE REVIEW.—The Secretary shall establish an ap-  
17       pellate authority to provide for a single level of ad-  
18       ministrative appellate review of such a determina-  
19       tion.

20           (2) STANDARD FOR REVIEW.—Such administra-  
21       tive appellate review shall be based solely upon the  
22       administrative record established at the time of the  
23       determination on the application and upon such ad-  
24       ditional or newly discovered evidence as may not  
25       have been available at the time of the determination.

1 (c) JUDICIAL REVIEW.—

2 (1) LIMITATION TO REVIEW OF REMOVAL.—

3 There shall be judicial review of such a determina-  
4 tion only in the judicial review of an order of re-  
5 moval under section 242 of the Immigration and  
6 Nationality Act (8 U.S.C. 1252).

7 (2) STANDARD FOR JUDICIAL REVIEW.—Such

8 judicial review shall be based solely upon the admin-  
9 istrative record established at the time of the review  
10 by the appellate authority and the findings of fact  
11 and determinations contained in such record shall be  
12 conclusive unless the applicant can establish abuse  
13 of discretion or that the findings are directly con-  
14 trary to clear and convincing facts contained in the  
15 record considered as a whole.

16 **SEC. 8016. DISSEMINATION OF INFORMATION.**

17 Beginning not later than the first day of the applica-  
18 tion period described in section 8011(a)(2), the Secretary,  
19 in cooperation with qualified designated entities (as that  
20 term is defined in section 8013(b)), shall broadly dissemi-  
21 nate information respecting the benefits that aliens may  
22 receive under this title and the requirements that an alien  
23 is required to meet to receive such benefits.

1 **SEC. 8017. RULEMAKING; EFFECTIVE DATE; AUTHORIZA-**  
2 **TION OF APPROPRIATIONS.**

3 (a) **RULEMAKING.**—The Secretary shall issue regula-  
4 tions to implement this title not later than the first day  
5 of the seventh month that begins after the date of the en-  
6 actment of this Act.

7 (b) **EFFECTIVE DATE.**—Except as otherwise pro-  
8 vided, this title shall take effect on the date that regula-  
9 tions required under subsection (a) are issued, regardless  
10 of whether such regulations are issued on an interim basis  
11 or on any other basis.

12 (c) **AUTHORIZATION OF APPROPRIATIONS.**—There  
13 are authorized to be appropriated to the Secretary for fis-  
14 cal years 2008 and 2009 such sums as may be necessary  
15 to implement this title.

16 **SEC. 8018. PRECLUSION OF SOCIAL SECURITY CREDITS**  
17 **FOR PERIODS WITHOUT WORK AUTHORIZA-**  
18 **TION.**

19 (a) **INSURED STATUS.**—Section 214 of the Social Se-  
20 curity Act (42 U.S.C. 414) is amended by adding at the  
21 end the following:

22 “(d)(1) Except as provided in paragraph (2), for pur-  
23 poses of subsections (a) and (b), no quarter of coverage  
24 shall be credited for any calendar year beginning on or  
25 after January 1, 2004, with respect to an individual grant-  
26 ed emergency agricultural worker status under section

1 8011 of the Emergency Agriculture Relief Act of 2008,  
2 unless the Commissioner of Social Security determines, on  
3 the basis of information provided to the Commissioner in  
4 accordance with an agreement under subsection (e) or oth-  
5 erwise, that the individual was authorized to be employed  
6 in the United States during such quarter.

7 “(2) Paragraph (1) shall not apply to an individual  
8 who was assigned a social security account number before  
9 January 1, 2004.

10 “(e) Not later than 180 days after the date of the  
11 enactment of this subsection, the Secretary of Homeland  
12 Security shall enter into an agreement with the Commis-  
13 sioner of Social Security to provide such information as  
14 the Commissioner determines necessary to carry out the  
15 limitation on crediting quarters of coverage under sub-  
16 section (d).”.

17 (b) BENEFIT COMPUTATION.—Section 215(e) of the  
18 Social Security Act (42 U.S.C. 415(e)) is amended—

19 (1) in paragraph (1), by striking “and” at the  
20 end;

21 (2) in paragraph (2), by striking the period at  
22 the end and inserting “; and”; and

23 (3) by adding at the end the following:

24 “(3) in computing the average indexed monthly  
25 earnings of an individual, wages or self-employment

1 income shall not be counted for any year for which  
2 no quarter of coverage may be credited to such indi-  
3 vidual pursuant to section 214(d).”.

4 (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to benefit applications filed on or  
6 after the date that is 180 days after the date of the enact-  
7 ment of this Act based on the wages or self-employment  
8 income of an individual with respect to whom a primary  
9 insurance amount has not been determined under title II  
10 of the Social Security Act (42 U.S.C. 401 et seq.) before  
11 such date.

12 **SEC. 8019. CORRECTION OF SOCIAL SECURITY RECORDS.**

13 (a) IN GENERAL.—Section 208(e)(1) of the Social  
14 Security Act (42 U.S.C. 408(e)(1)) is amended—

15 (1) in subparagraph (B)(ii), by striking “or” at  
16 the end;

17 (2) in subparagraph (C), by inserting “or” at  
18 the end;

19 (3) by inserting after subparagraph (C) the fol-  
20 lowing:

21 “(D) who is granted emergency agricultural  
22 worker status under the Emergency Agriculture Re-  
23 lief Act of 2008,”; and

24 (4) by striking “1990.” and inserting “1990, or  
25 in the case of an alien described in subparagraph

1 (D), if such conduct is alleged to have occurred be-  
2 fore the date on which the alien was granted emer-  
3 gency agricultural worker status.”.

4 (b) EFFECTIVE DATE.—The amendments made by  
5 subsection (a) shall take effect on the first day of the sev-  
6 enth month that begins after the date of the enactment  
7 of this Act.

## 8 **Subtitle B—H-2A Worker Program**

### 9 **SEC. 8021. REFORM OF H-2A WORKER PROGRAM.**

10 (a) IN GENERAL.—Title II of the Immigration and  
11 Nationality Act (8 U.S.C. 1151 et seq.) is amended by  
12 striking section 218 and inserting the following:

#### 13 **“SEC. 218. H-2A EMPLOYER APPLICATIONS.**

14 “(a) APPLICATIONS TO THE SECRETARY OF  
15 LABOR.—

16 “(1) IN GENERAL.—No alien may be admitted  
17 to the United States as an H-2A worker, or other-  
18 wise provided status as an H-2A worker, unless the  
19 employer has filed with the Secretary of Labor an  
20 application containing—

21 “(A) the assurances described in sub-  
22 section (b);

23 “(B) a description of the nature and loca-  
24 tion of the work to be performed;



1           “(B) STRIKE OR LOCKOUT.—The specific  
2 job opportunity for which the employer is re-  
3 questing an H-2A worker is not vacant because  
4 the former occupant is on strike or being locked  
5 out in the course of a labor dispute.

6           “(C) NOTIFICATION OF BARGAINING REP-  
7 RESENTATIVES.—The employer, at the time of  
8 filing the application, has provided notice of the  
9 filing under this paragraph to the bargaining  
10 representative of the employer’s employees in  
11 the occupational classification at the place or  
12 places of employment for which aliens are  
13 sought.

14           “(D) TEMPORARY OR SEASONAL JOB OP-  
15 PORTUNITIES.—The job opportunity is tem-  
16 porary or seasonal.

17           “(E) OFFERS TO UNITED STATES WORK-  
18 ERS.—The employer has offered or will offer  
19 the job to any eligible United States worker  
20 who applies and is equally or better qualified  
21 for the job for which the nonimmigrant is, or  
22 the nonimmigrants are, sought and who will be  
23 available at the time and place of need.

24           “(F) PROVISION OF INSURANCE.—If the  
25 job opportunity is not covered by the State

1 workers' compensation law, the employer will  
2 provide, at no cost to the worker, insurance cov-  
3 ering injury and disease arising out of, and in  
4 the course of, the worker's employment which  
5 will provide benefits at least equal to those pro-  
6 vided under the State's workers' compensation  
7 law for comparable employment.

8 “(2) JOB OPPORTUNITIES NOT COVERED BY  
9 COLLECTIVE BARGAINING AGREEMENTS.—With re-  
10 spect to a job opportunity that is not covered under  
11 a collective bargaining agreement:

12 “(A) STRIKE OR LOCKOUT.—The specific  
13 job opportunity for which the employer has ap-  
14 plied for an H-2A worker is not vacant because  
15 the former occupant is on strike or being locked  
16 out in the course of a labor dispute.

17 “(B) TEMPORARY OR SEASONAL JOB OP-  
18 PORTUNITIES.—The job opportunity is tem-  
19 porary or seasonal.

20 “(C) BENEFIT, WAGE, AND WORKING CON-  
21 DITIONS.—The employer will provide, at a min-  
22 imum, the benefits, wages, and working condi-  
23 tions required by section 218A to all workers  
24 employed in the job opportunities for which the  
25 employer has applied for an H-2A worker

1 under subsection (a) and to all other workers in  
2 the same occupation at the place of employ-  
3 ment.

4 “(D) NONDISPLACEMENT OF UNITED  
5 STATES WORKERS.—The employer did not dis-  
6 place and will not displace a United States  
7 worker employed by the employer during the  
8 period of employment and for a period of 30  
9 days preceding the period of employment in the  
10 occupation at the place of employment for  
11 which the employer has applied for an H-2A  
12 worker.

13 “(E) REQUIREMENTS FOR PLACEMENT OF  
14 THE NONIMMIGRANT WITH OTHER EMPLOY-  
15 ERS.—The employer will not place the non-  
16 immigrant with another employer unless—

17 “(i) the nonimmigrant performs du-  
18 ties in whole or in part at 1 or more work-  
19 sites owned, operated, or controlled by  
20 such other employer;

21 “(ii) there are indicia of an employ-  
22 ment relationship between the non-  
23 immigrant and such other employer; and

24 “(iii) the employer has inquired of the  
25 other employer as to whether, and has no

1 actual knowledge or notice that, during the  
2 period of employment and for a period of  
3 30 days preceding the period of employ-  
4 ment, the other employer has displaced or  
5 intends to displace a United States worker  
6 employed by the other employer in the oc-  
7 cupation at the place of employment for  
8 which the employer seeks approval to em-  
9 ploy H-2A workers.

10 “(F) STATEMENT OF LIABILITY.—The ap-  
11 plication form shall include a clear statement  
12 explaining the liability under subparagraph (E)  
13 of an employer if the other employer described  
14 in such subparagraph displaces a United States  
15 worker as described in such subparagraph.

16 “(G) PROVISION OF INSURANCE.—If the  
17 job opportunity is not covered by the State  
18 workers’ compensation law, the employer will  
19 provide, at no cost to the worker, insurance cov-  
20 ering injury and disease arising out of and in  
21 the course of the worker’s employment which  
22 will provide benefits at least equal to those pro-  
23 vided under the State’s workers’ compensation  
24 law for comparable employment.

1                   “(H) EMPLOYMENT OF UNITED STATES  
2 WORKERS.—

3                   “(i) RECRUITMENT.—The employer  
4 has taken or will take the following steps  
5 to recruit United States workers for the  
6 job opportunities for which the H-2A non-  
7 immigrant is, or H-2A nonimmigrants are,  
8 sought:

9                   “(I) CONTACTING FORMER  
10 WORKERS.—The employer shall make  
11 reasonable efforts through the sending  
12 of a letter by United States Postal  
13 Service mail, or otherwise, to contact  
14 any United States worker the em-  
15 ployer employed during the previous  
16 season in the occupation at the place  
17 of intended employment for which the  
18 employer is applying for workers and  
19 has made the availability of the em-  
20 ployer’s job opportunities in the occu-  
21 pation at the place of intended em-  
22 ployment known to such previous  
23 workers, unless the worker was termi-  
24 nated from employment by the em-  
25 ployer for a lawful job-related reason

1 or abandoned the job before the work-  
2 er completed the period of employ-  
3 ment of the job opportunity for which  
4 the worker was hired.

5 “(II) FILING A JOB OFFER WITH  
6 THE LOCAL OFFICE OF THE STATE  
7 EMPLOYMENT SECURITY AGENCY.—  
8 Not later than 28 days before the  
9 date on which the employer desires to  
10 employ an H-2A worker in a tem-  
11 porary or seasonal agricultural job op-  
12 portunity, the employer shall submit a  
13 copy of the job offer described in sub-  
14 section (a)(2) to the local office of the  
15 State employment security agency  
16 which serves the area of intended em-  
17 ployment and authorize the posting of  
18 the job opportunity on ‘America’s Job  
19 Bank’ or other electronic job registry,  
20 except that nothing in this subclause  
21 shall require the employer to file an  
22 interstate job order under section 653  
23 of title 20, Code of Federal Regula-  
24 tions.

1                   “(III) ADVERTISING OF JOB OP-  
2                   PORTUNITIES.—Not later than 14  
3                   days before the date on which the em-  
4                   ployer desires to employ an H-2A  
5                   worker in a temporary or seasonal ag-  
6                   ricultural job opportunity, the em-  
7                   ployer shall advertise the availability  
8                   of the job opportunities for which the  
9                   employer is seeking workers in a pub-  
10                  lication in the local labor market that  
11                  is likely to be patronized by potential  
12                  farm workers.

13                  “(IV) EMERGENCY PROCE-  
14                  DURES.—The Secretary of Labor  
15                  shall, by regulation, provide a proce-  
16                  dure for acceptance and approval of  
17                  applications in which the employer  
18                  has not complied with the provisions  
19                  of this subparagraph because the em-  
20                  ployer’s need for H-2A workers could  
21                  not reasonably have been foreseen.

22                  “(ii) JOB OFFERS.—The employer has  
23                  offered or will offer the job to any eligible  
24                  United States worker who applies and is  
25                  equally or better qualified for the job for

1           which the nonimmigrant is, or non-  
2           immigrants are, sought and who will be  
3           available at the time and place of need.

4           “(iii) PERIOD OF EMPLOYMENT.—The  
5           employer will provide employment to any  
6           qualified United States worker who applies  
7           to the employer during the period begin-  
8           ning on the date on which the H-2A work-  
9           er departs for the employer’s place of em-  
10          ployment and ending on the date on which  
11          50 percent of the period of employment for  
12          which the H-2A worker who is in the job  
13          was hired has elapsed, subject to the fol-  
14          lowing requirements:

15               “(I) PROHIBITION.—No person  
16               or entity shall willfully and knowingly  
17               withhold United States workers before  
18               the arrival of H-2A workers in order  
19               to force the hiring of United States  
20               workers under this clause.

21               “(II) COMPLAINTS.—Upon re-  
22               ceipt of a complaint by an employer  
23               that a violation of subclause (I) has  
24               occurred, the Secretary of Labor shall  
25               immediately investigate. The Sec-

1           retary of Labor shall, within 36 hours  
2           of the receipt of the complaint, issue  
3           findings concerning the alleged viola-  
4           tion. If the Secretary of Labor finds  
5           that a violation has occurred, the Sec-  
6           retary of Labor shall immediately sus-  
7           pend the application of this clause  
8           with respect to that certification for  
9           that date of need.

10           “(III) PLACEMENT OF UNITED  
11           STATES WORKERS.—Before referring  
12           a United States worker to an em-  
13           ployer during the period described in  
14           the matter preceding subclause (I),  
15           the Secretary of Labor shall make all  
16           reasonable efforts to place the United  
17           States worker in an open job accept-  
18           able to the worker, if there are other  
19           job offers pending with the job service  
20           that offer similar job opportunities in  
21           the area of intended employment.

22           “(iv) STATUTORY CONSTRUCTION.—  
23           Nothing in this subparagraph shall be con-  
24           strued to prohibit an employer from using  
25           such legitimate selection criteria relevant

1 to the type of job that are normal or cus-  
2 tomary to the type of job involved so long  
3 as such criteria are not applied in a dis-  
4 criminatory manner.

5 “(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF  
6 OF EMPLOYER MEMBERS.—

7 “(1) IN GENERAL.—An agricultural association  
8 may file an application under subsection (a) on be-  
9 half of 1 or more of its employer members that the  
10 association certifies in its application has or have  
11 agreed in writing to comply with the requirements of  
12 this section and sections 218A, 218B, and 218C.

13 “(2) TREATMENT OF ASSOCIATIONS ACTING AS  
14 EMPLOYERS.—If an association filing an application  
15 under paragraph (1) is a joint or sole employer of  
16 the temporary or seasonal agricultural workers re-  
17 quested on the application, the certifications granted  
18 under subsection (e)(2)(B) to the association may be  
19 used for the certified job opportunities of any of its  
20 producer members named on the application, and  
21 such workers may be transferred among such pro-  
22 ducer members to perform the agricultural services  
23 of a temporary or seasonal nature for which the cer-  
24 tifications were granted.

25 “(d) WITHDRAWAL OF APPLICATIONS.—

1           “(1) IN GENERAL.—An employer may withdraw  
2           an application filed pursuant to subsection (a), ex-  
3           cept that if the employer is an agricultural associa-  
4           tion, the association may withdraw an application  
5           filed pursuant to subsection (a) with respect to 1 or  
6           more of its members. To withdraw an application,  
7           the employer or association shall notify the Sec-  
8           retary of Labor in writing, and the Secretary of  
9           Labor shall acknowledge in writing the receipt of  
10          such withdrawal notice. An employer who withdraws  
11          an application under subsection (a), or on whose be-  
12          half an application is withdrawn, is relieved of the  
13          obligations undertaken in the application.

14          “(2) LIMITATION.—An application may not be  
15          withdrawn while any alien provided status under sec-  
16          tion 101(a)(15)(H)(ii)(a) pursuant to such applica-  
17          tion is employed by the employer.

18          “(3) OBLIGATIONS UNDER OTHER STATUTES.—  
19          Any obligation incurred by an employer under any  
20          other law or regulation as a result of the recruit-  
21          ment of United States workers or H-2A workers  
22          under an offer of terms and conditions of employ-  
23          ment required as a result of making an application  
24          under subsection (a) is unaffected by withdrawal of  
25          such application.

1 “(e) REVIEW AND APPROVAL OF APPLICATIONS.—

2 “(1) RESPONSIBILITY OF EMPLOYERS.—The  
3 employer shall make available for public examina-  
4 tion, within 1 working day after the date on which  
5 an application under subsection (a) is filed, at the  
6 employer’s principal place of business or worksite, a  
7 copy of each such application (and such accom-  
8 panying documents as are necessary).

9 “(2) RESPONSIBILITY OF THE SECRETARY OF  
10 LABOR.—

11 “(A) COMPILATION OF LIST.—The Sec-  
12 retary of Labor shall compile, on a current  
13 basis, a list (by employer and by occupational  
14 classification) of the applications filed under  
15 subsection (a). Such list shall include the wage  
16 rate, number of workers sought, period of in-  
17 tended employment, and date of need. The Sec-  
18 retary of Labor shall make such list available  
19 for examination in the District of Columbia.

20 “(B) REVIEW OF APPLICATIONS.—The  
21 Secretary of Labor shall review such an applica-  
22 tion only for completeness and obvious inac-  
23 curacies. Unless the Secretary of Labor finds  
24 that the application is incomplete or obviously  
25 inaccurate, the Secretary of Labor shall certify

1           that the intending employer has filed with the  
2           Secretary of Labor an application as described  
3           in subsection (a). Such certification shall be  
4           provided within 7 days of the filing of the appli-  
5           cation.”

6   **“SEC. 218A. H-2A WORKER EMPLOYMENT REQUIREMENTS.**

7           “(a) PREFERENTIAL TREATMENT OF ALIENS PRO-  
8   HIBITED.—Employers seeking to hire United States work-  
9   ers shall offer the United States workers no less than the  
10   same benefits, wages, and working conditions that the em-  
11   ployer is offering, intends to offer, or will provide to H-  
12   2A workers. Conversely, no job offer may impose on  
13   United States workers any restrictions or obligations  
14   which will not be imposed on the employer’s H-2A work-  
15   ers.

16          “(b) MINIMUM BENEFITS, WAGES, AND WORKING  
17   CONDITIONS.—Except in cases where higher benefits,  
18   wages, or working conditions are required by the provi-  
19   sions of subsection (a), in order to protect similarly em-  
20   ployed United States workers from adverse effects with  
21   respect to benefits, wages, and working conditions, every  
22   job offer which shall accompany an application under sec-  
23   tion 218(b)(2) shall include each of the following benefit,  
24   wage, and working condition provisions:

1           “(1) REQUIREMENT TO PROVIDE HOUSING OR A  
2 HOUSING ALLOWANCE.—

3           “(A) IN GENERAL.—An employer applying  
4 under section 218(a) for H-2A workers shall  
5 offer to provide housing at no cost to all work-  
6 ers in job opportunities for which the employer  
7 has applied under that section and to all other  
8 workers in the same occupation at the place of  
9 employment, whose place of residence is beyond  
10 normal commuting distance.

11           “(B) TYPE OF HOUSING.—In complying  
12 with subparagraph (A), an employer may, at  
13 the employer’s election, provide housing that  
14 meets applicable Federal standards for tem-  
15 porary labor camps or secure housing that  
16 meets applicable local standards for rental or  
17 public accommodation housing or other sub-  
18 stantially similar class of habitation, or in the  
19 absence of applicable local standards, State  
20 standards for rental or public accommodation  
21 housing or other substantially similar class of  
22 habitation. In the absence of applicable local or  
23 State standards, Federal temporary labor camp  
24 standards shall apply.

1           “(C) FAMILY HOUSING.—If it is the pre-  
2           vailing practice in the occupation and area of  
3           intended employment to provide family housing,  
4           family housing shall be provided to workers  
5           with families who request it.

6           “(D) WORKERS ENGAGED IN THE RANGE  
7           PRODUCTION OF LIVESTOCK.—The Secretary of  
8           Labor shall issue regulations that address the  
9           specific requirements for the provision of hous-  
10          ing to workers engaged in the range production  
11          of livestock.

12          “(E) LIMITATION.—Nothing in this para-  
13          graph shall be construed to require an employer  
14          to provide or secure housing for persons who  
15          were not entitled to such housing under the  
16          temporary labor certification regulations in ef-  
17          fect on June 1, 1986.

18          “(F) CHARGES FOR HOUSING.—

19                 “(i) CHARGES FOR PUBLIC HOUS-  
20                 ING.—If public housing provided for mi-  
21                 grant agricultural workers under the aus-  
22                 pices of a local, county, or State govern-  
23                 ment is secured by an employer, and use of  
24                 the public housing unit normally requires  
25                 charges from migrant workers, such

1 charges shall be paid by the employer di-  
2 rectly to the appropriate individual or enti-  
3 ty affiliated with the housing's manage-  
4 ment.

5 “(ii) DEPOSIT CHARGES.—Charges in  
6 the form of deposits for bedding or other  
7 similar incidentals related to housing shall  
8 not be levied upon workers by employers  
9 who provide housing for their workers. An  
10 employer may require a worker found to  
11 have been responsible for damage to such  
12 housing which is not the result of normal  
13 wear and tear related to habitation to re-  
14 imburse the employer for the reasonable  
15 cost of repair of such damage.

16 “(G) HOUSING ALLOWANCE AS ALTER-  
17 NATIVE.—

18 “(i) IN GENERAL.—If the requirement  
19 set out in clause (ii) is satisfied, the em-  
20 ployer may provide a reasonable housing  
21 allowance instead of offering housing  
22 under subparagraph (A). Upon the request  
23 of a worker seeking assistance in locating  
24 housing, the employer shall make a good  
25 faith effort to assist the worker in identi-

1           fying and locating housing in the area of  
2           intended employment. An employer who of-  
3           fers a housing allowance to a worker, or  
4           assists a worker in locating housing which  
5           the worker occupies, pursuant to this  
6           clause shall not be deemed a housing pro-  
7           vider under section 203 of the Migrant and  
8           Seasonal Agricultural Worker Protection  
9           Act (29 U.S.C. 1823) solely by virtue of  
10          providing such housing allowance. No  
11          housing allowance may be used for housing  
12          which is owned or controlled by the em-  
13          ployer.

14                 “(ii) CERTIFICATION.—The require-  
15                 ment of this clause is satisfied if the Gov-  
16                 ernor of the State certifies to the Secretary  
17                 of Labor that there is adequate housing  
18                 available in the area of intended employ-  
19                 ment for migrant farm workers and H-2A  
20                 workers who are seeking temporary hous-  
21                 ing while employed in agricultural work.  
22                 Such certification shall expire after 3 years  
23                 unless renewed by the Governor of the  
24                 State.

25                 “(iii) AMOUNT OF ALLOWANCE.—

1           “(I) NONMETROPOLITAN COUN-  
2           TIES.—If the place of employment of  
3           the workers provided an allowance  
4           under this subparagraph is a non-  
5           metropolitan county, the amount of  
6           the housing allowance under this sub-  
7           paragraph shall be equal to the state-  
8           wide average fair market rental for  
9           existing housing for nonmetropolitan  
10          counties for the State, as established  
11          by the Secretary of Housing and  
12          Urban Development pursuant to sec-  
13          tion 8(c) of the United States Hous-  
14          ing Act of 1937 (42 U.S.C. 1437f(c)),  
15          based on a 2-bedroom dwelling unit  
16          and an assumption of 2 persons per  
17          bedroom.

18          “(II) METROPOLITAN COUN-  
19          TIES.—If the place of employment of  
20          the workers provided an allowance  
21          under this paragraph is in a metro-  
22          politan county, the amount of the  
23          housing allowance under this subpara-  
24          graph shall be equal to the statewide  
25          average fair market rental for existing

1 housing for metropolitan counties for  
2 the State, as established by the Sec-  
3 retary of Housing and Urban Devel-  
4 opment pursuant to section 8(c) of  
5 the United States Housing Act of  
6 1937 (42 U.S.C. 1437f(c)), based on  
7 a 2-bedroom dwelling unit and an as-  
8 sumption of 2 persons per bedroom.

9 “(2) REIMBURSEMENT OF TRANSPORTATION.—

10 “(A) TO PLACE OF EMPLOYMENT.—A  
11 worker who completes 50 percent of the period  
12 of employment of the job opportunity for which  
13 the worker was hired shall be reimbursed by the  
14 employer for the cost of the worker’s transpor-  
15 tation and subsistence from the place from  
16 which the worker came to work for the em-  
17 ployer (or place of last employment, if the  
18 worker traveled from such place) to the place of  
19 employment.

20 “(B) FROM PLACE OF EMPLOYMENT.—A  
21 worker who completes the period of employment  
22 for the job opportunity involved shall be reim-  
23 bursed by the employer for the cost of the  
24 worker’s transportation and subsistence from  
25 the place of employment to the place from

1           which the worker, disregarding intervening em-  
2           ployment, came to work for the employer, or to  
3           the place of next employment, if the worker has  
4           contracted with a subsequent employer who has  
5           not agreed to provide or pay for the worker's  
6           transportation and subsistence to such subse-  
7           quent employer's place of employment.

8           “(C) LIMITATION.—

9           “(i) AMOUNT OF REIMBURSEMENT.—

10          Except as provided in clause (ii), the  
11          amount of reimbursement provided under  
12          subparagraph (A) or (B) to a worker or  
13          alien shall not exceed the lesser of—

14               “(I) the actual cost to the worker

15               or alien of the transportation and sub-  
16               sistence involved; or

17               “(II) the most economical and

18               reasonable common carrier transpor-  
19               tation charges and subsistence costs  
20               for the distance involved.

21          “(ii) DISTANCE TRAVELED.—No reim-

22          bursement under subparagraph (A) or (B)

23          shall be required if the distance traveled is

24          100 miles or less, or the worker is not re-

25          siding in employer-provided housing or

1           housing secured through an allowance as  
2           provided in paragraph (1)(G).

3           “(D) EARLY TERMINATION.—If the worker  
4           is laid off or employment is terminated for con-  
5           tract impossibility (as described in paragraph  
6           (4)(D)) before the anticipated ending date of  
7           employment, the employer shall provide the  
8           transportation and subsistence required by sub-  
9           paragraph (B) and, notwithstanding whether  
10          the worker has completed 50 percent of the pe-  
11          riod of employment, shall provide the transpor-  
12          tation reimbursement required by subparagraph  
13          (A).

14          “(E) TRANSPORTATION BETWEEN LIVING  
15          QUARTERS AND WORKSITE.—The employer  
16          shall provide transportation between the work-  
17          er’s living quarters and the employer’s worksite  
18          without cost to the worker, and such transpor-  
19          tation will be in accordance with applicable laws  
20          and regulations.

21          “(3) REQUIRED WAGES.—

22          “(A) IN GENERAL.—An employer applying  
23          for workers under section 218(a) shall offer to  
24          pay, and shall pay, all workers in the occupa-  
25          tion for which the employer has applied for

1 workers, not less (and is not required to pay  
2 more) than the greater of the prevailing wage  
3 in the occupation in the area of intended em-  
4 ployment or the adverse effect wage rate. No  
5 worker shall be paid less than the greater of the  
6 hourly wage prescribed under section 6(a)(1) of  
7 the Fair Labor Standards Act of 1938 (29  
8 U.S.C. 206(a)(1)) or the applicable State min-  
9 imum wage.

10 “(B) LIMITATION.—Effective on the date  
11 of the enactment of the Emergency Agriculture  
12 Relief Act of 2008 and continuing for 3 years  
13 thereafter, no adverse effect wage rate for a  
14 State may be more than the adverse effect wage  
15 rate for that State in effect on January 1,  
16 2008, as established by section 655.107 of title  
17 20, Code of Federal Regulations.

18 “(C) REQUIRED WAGES AFTER 3-YEAR  
19 FREEZE.—If Congress does not set a new wage  
20 standard applicable to this section before March  
21 1, 2012, the adverse effect wage rate for each  
22 State beginning on March 1, 2012 shall be the  
23 wage rate that would have resulted under the  
24 methodology in effect on January 1, 2008.

1           “(D) DEDUCTIONS.—The employer shall  
2           make only those deductions from the worker’s  
3           wages that are authorized by law or are reason-  
4           able and customary in the occupation and area  
5           of employment. The job offer shall specify all  
6           deductions not required by law which the em-  
7           ployer will make from the worker’s wages.

8           “(E) FREQUENCY OF PAY.—The employer  
9           shall pay the worker not less frequently than  
10          twice monthly, or in accordance with the pre-  
11          vailing practice in the area of employment,  
12          whichever is more frequent.

13          “(F) HOURS AND EARNINGS STATE-  
14          MENTS.—The employer shall furnish to the  
15          worker, on or before each payday, in 1 or more  
16          written statements—

17                 “(i) the worker’s total earnings for  
18                 the pay period;

19                 “(ii) the worker’s hourly rate of pay,  
20                 piece rate of pay, or both;

21                 “(iii) the hours of employment which  
22                 have been offered to the worker (broken  
23                 out by hours offered in accordance with  
24                 and over and above the  $\frac{3}{4}$  guarantee de-  
25                 scribed in paragraph (4);

1           “(iv) the hours actually worked by the  
2           worker;

3           “(v) an itemization of the deductions  
4           made from the worker’s wages; and

5           “(vi) if piece rates of pay are used,  
6           the units produced daily.

7           “(G) REPORT ON WAGE PROTECTIONS.—  
8           Not later than December 31, 2010, the Comp-  
9           troller General of the United States shall pre-  
10          pare and transmit to the Secretary of Labor,  
11          the Committee on the Judiciary of the Senate,  
12          and Committee on the Judiciary of the House  
13          of Representatives, a report that addresses—

14               “(i) whether the employment of H-2A  
15               or unauthorized aliens in the United States  
16               agricultural workforce has depressed  
17               United States farm worker wages below  
18               the levels that would otherwise have pre-  
19               vailed if alien farm workers had not been  
20               employed in the United States;

21               “(ii) whether an adverse effect wage  
22               rate is necessary to prevent wages of  
23               United States farm workers in occupations  
24               in which H-2A workers are employed from  
25               falling below the wage levels that would

1 have prevailed in the absence of the em-  
2 ployment of H-2A workers in those occu-  
3 pations;

4 “(iii) whether alternative wage stand-  
5 ards, such as a prevailing wage standard,  
6 would be sufficient to prevent wages in oc-  
7 cupations in which H-2A workers are em-  
8 ployed from falling below the wage level  
9 that would have prevailed in the absence of  
10 H-2A employment;

11 “(iv) whether any changes are war-  
12 ranted in the current methodologies for  
13 calculating the adverse effect wage rate  
14 and the prevailing wage; and

15 “(v) recommendations for future wage  
16 protection under this section.

17 “(H) COMMISSION ON WAGE STAND-  
18 ARDS.—

19 “(i) ESTABLISHMENT.—There is es-  
20 tablished the Commission on Agricultural  
21 Wage Standards under the H-2A program  
22 (in this subparagraph referred to as the  
23 ‘Commission’).

24 “(ii) COMPOSITION.—The Commission  
25 shall consist of 10 members as follows:

1           “(I) Four representatives of agri-  
2           cultural employers and 1 representa-  
3           tive of the Department of Agriculture,  
4           each appointed by the Secretary of  
5           Agriculture.

6           “(II) Four representatives of ag-  
7           ricultural workers and 1 representa-  
8           tive of the Department of Labor, each  
9           appointed by the Secretary of Labor.

10          “(iii) FUNCTIONS.—The Commission  
11          shall conduct a study that shall address—

12                 “(I) whether the employment of  
13                 H-2A or unauthorized aliens in the  
14                 United States agricultural workforce  
15                 has depressed United States farm  
16                 worker wages below the levels that  
17                 would otherwise have prevailed if alien  
18                 farm workers had not been employed  
19                 in the United States;

20                 “(II) whether an adverse effect  
21                 wage rate is necessary to prevent  
22                 wages of United States farm workers  
23                 in occupations in which H-2A work-  
24                 ers are employed from falling below  
25                 the wage levels that would have pre-

1           vailed in the absence of the employ-  
2           ment of H-2A workers in those occu-  
3           pations;

4           “(III) whether alternative wage  
5           standards, such as a prevailing wage  
6           standard, would be sufficient to pre-  
7           vent wages in occupations in which  
8           H-2A workers are employed from fall-  
9           ing below the wage level that would  
10          have prevailed in the absence of H-2A  
11          employment;

12          “(IV) whether any changes are  
13          warranted in the current methodolo-  
14          gies for calculating the adverse effect  
15          wage rate and the prevailing wage  
16          rate; and

17          “(V) recommendations for future  
18          wage protection under this section.

19          “(iv) FINAL REPORT.—Not later than  
20          December 31, 2010, the Commission shall  
21          submit a report to the Congress setting  
22          forth the findings of the study conducted  
23          under clause (iii).

1                   “(v) TERMINATION DATE.—The Com-  
2                   mission shall terminate upon submitting  
3                   its final report.

4                   “(4) GUARANTEE OF EMPLOYMENT.—

5                   “(A) OFFER TO WORKER.—The employer  
6                   shall guarantee to offer the worker employment  
7                   for the hourly equivalent of at least  $\frac{3}{4}$  of the  
8                   work days of the total period of employment,  
9                   beginning with the first work day after the ar-  
10                  rival of the worker at the place of employment  
11                  and ending on the expiration date specified in  
12                  the job offer. For purposes of this subpara-  
13                  graph, the hourly equivalent means the number  
14                  of hours in the work days as stated in the job  
15                  offer and shall exclude the worker’s Sabbath  
16                  and Federal holidays. If the employer affords  
17                  the United States or H-2A worker less employ-  
18                  ment than that required under this paragraph,  
19                  the employer shall pay such worker the amount  
20                  which the worker would have earned had the  
21                  worker, in fact, worked for the guaranteed  
22                  number of hours.

23                  “(B) FAILURE TO WORK.—Any hours  
24                  which the worker fails to work, up to a max-  
25                  imum of the number of hours specified in the

1 job offer for a work day, when the worker has  
2 been offered an opportunity to do so, and all  
3 hours of work actually performed (including vol-  
4 untary work in excess of the number of hours  
5 specified in the job offer in a work day, on the  
6 worker's Sabbath, or on Federal holidays) may  
7 be counted by the employer in calculating  
8 whether the period of guaranteed employment  
9 has been met.

10 “(C) ABANDONMENT OF EMPLOYMENT,  
11 TERMINATION FOR CAUSE.—If the worker vol-  
12 untarily abandons employment before the end  
13 of the contract period, or is terminated for  
14 cause, the worker is not entitled to the ‘ $\frac{3}{4}$   
15 guarantee’ described in subparagraph (A).

16 “(D) CONTRACT IMPOSSIBILITY.—If, be-  
17 fore the expiration of the period of employment  
18 specified in the job offer, the services of the  
19 worker are no longer required for reasons be-  
20 yond the control of the employer due to any  
21 form of natural disaster, including a flood, hur-  
22 ricane, freeze, earthquake, fire, drought, plant  
23 or animal disease or pest infestation, or regu-  
24 latory drought, before the guarantee in sub-  
25 paragraph (A) is fulfilled, the employer may

1 terminate the worker's employment. In the  
2 event of such termination, the employer shall  
3 fulfill the employment guarantee in subpara-  
4 graph (A) for the work days that have elapsed  
5 from the first work day after the arrival of the  
6 worker to the termination of employment. In  
7 such cases, the employer will make efforts to  
8 transfer the United States worker to other com-  
9 parable employment acceptable to the worker. If  
10 such transfer is not effected, the employer shall  
11 provide the return transportation required in  
12 paragraph (2)(D).

13 “(5) MOTOR VEHICLE SAFETY.—

14 “(A) MODE OF TRANSPORTATION SUBJECT  
15 TO COVERAGE.—

16 “(i) IN GENERAL.—Except as pro-  
17 vided in clauses (iii) and (iv), this sub-  
18 section applies to any H-2A employer that  
19 uses or causes to be used any vehicle to  
20 transport an H-2A worker within the  
21 United States.

22 “(ii) DEFINED TERM.—In this para-  
23 graph, the term ‘uses or causes to be  
24 used’—

1           “(I) applies only to transpor-  
2           tation provided by an H-2A employer  
3           to an H-2A worker, or by a farm  
4           labor contractor to an H-2A worker  
5           at the request or direction of an H-  
6           2A employer; and

7           “(II) does not apply to—

8           “(aa) transportation pro-  
9           vided, or transportation arrange-  
10          ments made, by an H-2A work-  
11          er, unless the employer specifi-  
12          cally requested or arranged such  
13          transportation; or

14          “(bb) car pooling arrange-  
15          ments made by H-2A workers  
16          themselves, using 1 of the work-  
17          ers’ own vehicles, unless specifi-  
18          cally requested by the employer  
19          directly or through a farm labor  
20          contractor.

21          “(iii) CLARIFICATION.—Providing a  
22          job offer to an H-2A worker that causes  
23          the worker to travel to or from the place  
24          of employment, or the payment or reim-  
25          bursement of the transportation costs of

1 an H-2A worker by an H-2A employer,  
2 shall not constitute an arrangement of, or  
3 participation in, such transportation.

4 “(iv) AGRICULTURAL MACHINERY AND  
5 EQUIPMENT EXCLUDED.—This subsection  
6 does not apply to the transportation of an  
7 H-2A worker on a tractor, combine, har-  
8 vester, picker, or other similar machinery  
9 or equipment while such worker is actually  
10 engaged in the planting, cultivating, or  
11 harvesting of agricultural commodities or  
12 the care of livestock or poultry or engaged  
13 in transportation incidental thereto.

14 “(v) COMMON CARRIERS EX-  
15 CLUDED.—This subsection does not apply  
16 to common carrier motor vehicle transpor-  
17 tation in which the provider holds itself out  
18 to the general public as engaging in the  
19 transportation of passengers for hire and  
20 holds a valid certification of authorization  
21 for such purposes from an appropriate  
22 Federal, State, or local agency.

23 “(B) APPLICABILITY OF STANDARDS, LI-  
24 CENSING, AND INSURANCE REQUIREMENTS.—

1           “(i) IN GENERAL.—When using, or  
2 causing to be used, any vehicle for the pur-  
3 pose of providing transportation to which  
4 this subparagraph applies, each employer  
5 shall—

6                   “(I) ensure that each such vehi-  
7 cle conforms to the standards pre-  
8 scribed by the Secretary of Labor  
9 under section 401(b) of the Migrant  
10 and Seasonal Agricultural Worker  
11 Protection Act (29 U.S.C. 1841(b))  
12 and other applicable Federal and  
13 State safety standards;

14                   “(II) ensure that each driver has  
15 a valid and appropriate license, as  
16 provided by State law, to operate the  
17 vehicle; and

18                   “(III) have an insurance policy  
19 or a liability bond that is in effect  
20 which insures the employer against li-  
21 ability for damage to persons or prop-  
22 erty arising from the ownership, oper-  
23 ation, or causing to be operated, of  
24 any vehicle used to transport any H-  
25 2A worker.

1           “(ii) AMOUNT OF INSURANCE RE-  
2           QUIRED.—The level of insurance required  
3           shall be determined by the Secretary of  
4           Labor pursuant to regulations to be issued  
5           under this subsection.

6           “(iii) EFFECT OF WORKERS’ COM-  
7           PENSATION COVERAGE.—If the employer  
8           of any H-2A worker provides workers’  
9           compensation coverage for such worker in  
10          the case of bodily injury or death as pro-  
11          vided by State law, the following adjust-  
12          ments in the requirements of subparagraph  
13          (B)(i)(III) relating to having an insurance  
14          policy or liability bond apply:

15               “(I) No insurance policy or liabil-  
16               ity bond shall be required of the em-  
17               ployer, if such workers are trans-  
18               ported only under circumstances for  
19               which there is coverage under such  
20               State law.

21               “(II) An insurance policy or li-  
22               ability bond shall be required of the  
23               employer for circumstances under  
24               which coverage for the transportation

1                   of such workers is not provided under  
2                   such State law.

3           “(c) COMPLIANCE WITH LABOR LAWS.—An em-  
4 ployer shall assure that, except as otherwise provided in  
5 this section, the employer will comply with all applicable  
6 Federal, State, and local labor laws, including laws affect-  
7 ing migrant and seasonal agricultural workers, with re-  
8 spect to all United States workers and alien workers em-  
9 ployed by the employer, except that a violation of this as-  
10 surance shall not constitute a violation of the Migrant and  
11 Seasonal Agricultural Worker Protection Act (29 U.S.C.  
12 1801 et seq.).

13           “(d) COPY OF JOB OFFER.—The employer shall pro-  
14 vide to the worker, not later than the day the work com-  
15 mences, a copy of the employer’s application and job offer  
16 described in section 218(a), or, if the employer will require  
17 the worker to enter into a separate employment contract  
18 covering the employment in question, such separate em-  
19 ployment contract.

20           “(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing  
21 in this section, section 218, or section 218B shall preclude  
22 the Secretary of Labor and the Secretary from continuing  
23 to apply special procedures and requirements to the ad-  
24 mission and employment of aliens in occupations involving  
25 the range production of livestock.

1 **“SEC. 218B. PROCEDURE FOR ADMISSION AND EXTENSION**  
2 **OF STAY OF H-2A WORKERS.**

3 “(a) **PETITIONING FOR ADMISSION.**—An employer,  
4 or an association acting as an agent or joint employer for  
5 its members, that seeks the admission into the United  
6 States of an H-2A worker may file a petition with the  
7 Secretary. The petition shall be accompanied by an accept-  
8 ed and currently valid certification provided by the Sec-  
9 retary of Labor under section 218(e)(2)(B) covering the  
10 petitioner.

11 “(b) **EXPEDITED ADJUDICATION BY THE SEC-**  
12 **RETARY.**—The Secretary shall establish a procedure for  
13 expedited adjudication of petitions filed under subsection  
14 (a) and within 7 working days shall, by fax, cable, or other  
15 means assuring expedited delivery, transmit a copy of no-  
16 tice of action on the petition to the petitioner and, in the  
17 case of approved petitions, to the appropriate immigration  
18 officer at the port of entry or United States consulate (as  
19 the case may be) where the petitioner has indicated that  
20 the alien beneficiary (or beneficiaries) will apply for a visa  
21 or admission to the United States.

22 “(c) **CRITERIA FOR ADMISSIBILITY.**—

23 “(1) **IN GENERAL.**—An H-2A worker shall be  
24 considered admissible to the United States if the  
25 alien is otherwise admissible under this section, sec-

1       tion 218, and section 218A, and the alien is not in-  
2       eligible under paragraph (2).

3           “(2) DISQUALIFICATION.—An alien shall be  
4       considered inadmissible to the United States and in-  
5       eligible for nonimmigrant status under section  
6       101(a)(15)(H)(ii)(a) if the alien has, at any time  
7       during the past 5 years—

8           “(A) violated a material provision of this  
9       section, including the requirement to promptly  
10      depart the United States when the alien’s au-  
11      thorized period of admission under this section  
12      has expired; or

13          “(B) otherwise violated a term or condition  
14      of admission into the United States as a non-  
15      immigrant, including overstaying the period of  
16      authorized admission as such a nonimmigrant.

17          “(3) WAIVER OF INELIGIBILITY FOR UNLAW-  
18      FUL PRESENCE.—

19          “(A) IN GENERAL.—An alien who has not  
20      previously been admitted into the United States  
21      pursuant to this section, and who is otherwise  
22      eligible for admission in accordance with para-  
23      graphs (1) and (2), shall not be deemed inad-  
24      missible by virtue of section 212(a)(9)(B). If an  
25      alien described in the preceding sentence is

1 present in the United States, the alien may  
2 apply from abroad for H-2A status, but may  
3 not be granted that status in the United States.

4 “(B) MAINTENANCE OF WAIVER.—An  
5 alien provided an initial waiver of ineligibility  
6 pursuant to subparagraph (A) shall remain eli-  
7 gible for such waiver unless the alien violates  
8 the terms of this section or again becomes ineli-  
9 gible under section 212(a)(9)(B) by virtue of  
10 unlawful presence in the United States after  
11 the date of the initial waiver of ineligibility pur-  
12 suant to subparagraph (A).

13 “(d) PERIOD OF ADMISSION.—

14 “(1) IN GENERAL.—The alien shall be admitted  
15 for the period of employment in the application cer-  
16 tified by the Secretary of Labor pursuant to section  
17 218(e)(2)(B), not to exceed 10 months, supple-  
18 mented by a period of not more than 1 week before  
19 the beginning of the period of employment for the  
20 purpose of travel to the worksite and a period of 14  
21 days following the period of employment for the pur-  
22 pose of departure or extension based on a subse-  
23 quent offer of employment, except that—

24 “(A) the alien is not authorized to be em-  
25 ployed during such 14-day period except in the

1 employment for which the alien was previously  
2 authorized; and

3 “(B) the total period of employment, in-  
4 cluding such 14-day period, may not exceed 10  
5 months.

6 “(2) CONSTRUCTION.—Nothing in this sub-  
7 section shall limit the authority of the Secretary to  
8 extend the stay of the alien under any other provi-  
9 sion of this Act.

10 “(e) ABANDONMENT OF EMPLOYMENT.—

11 “(1) IN GENERAL.—An alien admitted or pro-  
12 vided status under section 101(a)(15)(H)(ii)(a) who  
13 abandons the employment which was the basis for  
14 such admission or status shall be considered to have  
15 failed to maintain nonimmigrant status as an H-2A  
16 worker and shall depart the United States or be sub-  
17 ject to removal under section 237(a)(1)(C)(i).

18 “(2) REPORT BY EMPLOYER.—The employer, or  
19 association acting as agent for the employer, shall  
20 notify the Secretary not later than 7 days after an  
21 H-2A worker prematurely abandons employment.

22 “(3) REMOVAL BY THE SECRETARY.—The Sec-  
23 retary shall promptly remove from the United States  
24 any H-2A worker who violates any term or condi-  
25 tion of the worker’s nonimmigrant status.

1           “(4) VOLUNTARY TERMINATION.—Notwith-  
2 standing paragraph (1), an alien may voluntarily  
3 terminate his or her employment if the alien prompt-  
4 ly departs the United States upon termination of  
5 such employment.

6           “(f) REPLACEMENT OF ALIEN.—

7           “(1) IN GENERAL.—Upon presentation of the  
8 notice to the Secretary required by subsection (e)(2),  
9 the Secretary of State shall promptly issue a visa to,  
10 and the Secretary shall admit into the United  
11 States, an eligible alien designated by the employer  
12 to replace an H-2A worker—

13                   “(A) who abandons or prematurely termi-  
14 nates employment; or

15                   “(B) whose employment is terminated  
16 after a United States worker is employed pur-  
17 suant to section 218(b)(2)(H)(iii), if the United  
18 States worker voluntarily departs before the  
19 end of the period of intended employment or if  
20 the employment termination is for a lawful job-  
21 related reason.

22           “(2) CONSTRUCTION.—Nothing in this sub-  
23 section is intended to limit any preference required  
24 to be accorded United States workers under any  
25 other provision of this Act.

1 “(g) IDENTIFICATION DOCUMENT.—

2 “(1) IN GENERAL.—Each alien authorized to be  
3 admitted under section 101(a)(15)(H)(ii)(a) shall be  
4 provided an identification and employment eligibility  
5 document to verify eligibility for employment in the  
6 United States and verify the alien’s identity.

7 “(2) REQUIREMENTS.—No identification and  
8 employment eligibility document may be issued  
9 which does not meet the following requirements:

10 “(A) The document shall be capable of re-  
11 liably determining whether—

12 “(i) the individual with the identifica-  
13 tion and employment eligibility document  
14 whose eligibility is being verified is in fact  
15 eligible for employment;

16 “(ii) the individual whose eligibility is  
17 being verified is claiming the identity of  
18 another person; and

19 “(iii) the individual whose eligibility is  
20 being verified is authorized to be admitted  
21 into, and employed in, the United States  
22 as an H-2A worker.

23 “(B) The document shall be in a form that  
24 is resistant to counterfeiting and to tampering.

25 “(C) The document shall—

1           “(i) be compatible with other data-  
2           bases of the Secretary for the purpose of  
3           excluding aliens from benefits for which  
4           they are not eligible and determining  
5           whether the alien is unlawfully present in  
6           the United States; and

7           “(ii) be compatible with law enforce-  
8           ment databases to determine if the alien  
9           has been convicted of criminal offenses.

10       “(h) EXTENSION OF STAY OF H-2A ALIENS IN THE  
11       UNITED STATES.—

12           “(1) EXTENSION OF STAY.—If an employer  
13       seeks approval to employ an H-2A alien who is law-  
14       fully present in the United States, the petition filed  
15       by the employer or an association pursuant to sub-  
16       section (a), shall request an extension of the alien’s  
17       stay and a change in the alien’s employment.

18           “(2) LIMITATION ON FILING A PETITION FOR  
19       EXTENSION OF STAY.—A petition may not be filed  
20       for an extension of an alien’s stay—

21           “(A) for a period of more than 10 months;

22           or

23           “(B) to a date that is more than 3 years  
24       after the date of the alien’s last admission to  
25       the United States under this section.

1           “(3) WORK AUTHORIZATION UPON FILING A  
2           PETITION FOR EXTENSION OF STAY.—

3           “(A) IN GENERAL.—An alien who is law-  
4           fully present in the United States may com-  
5           mence the employment described in a petition  
6           under paragraph (1) on the date on which the  
7           petition is filed.

8           “(B) DEFINITION.—For purposes of sub-  
9           paragraph (A), the term ‘file’ means sending  
10          the petition by certified mail via the United  
11          States Postal Service, return receipt requested,  
12          or delivered by guaranteed commercial delivery  
13          which will provide the employer with a docu-  
14          mented acknowledgment of the date of receipt  
15          of the petition.

16          “(C) HANDLING OF PETITION.—The em-  
17          ployer shall provide a copy of the employer’s pe-  
18          tition to the alien, who shall keep the petition  
19          with the alien’s identification and employment  
20          eligibility document as evidence that the peti-  
21          tion has been filed and that the alien is author-  
22          ized to work in the United States.

23          “(D) APPROVAL OF PETITION.—Upon ap-  
24          proval of a petition for an extension of stay or  
25          change in the alien’s authorized employment,

1           the Secretary shall provide a new or updated  
2           employment eligibility document to the alien in-  
3           dicating the new validity date, after which the  
4           alien is not required to retain a copy of the pe-  
5           tition.

6           “(4) LIMITATION ON EMPLOYMENT AUTHORIZA-  
7           TION OF ALIENS WITHOUT VALID IDENTIFICATION  
8           AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An ex-  
9           pired identification and employment eligibility docu-  
10          ment, together with a copy of a petition for exten-  
11          sion of stay or change in the alien’s authorized em-  
12          ployment that complies with the requirements of  
13          paragraph (1), shall constitute a valid work author-  
14          ization document for a period of not more than 60  
15          days beginning on the date on which such petition  
16          is filed, after which time only a currently valid iden-  
17          tification and employment eligibility document shall  
18          be acceptable.

19          “(5) LIMITATION ON AN INDIVIDUAL’S STAY IN  
20          STATUS.—

21                 “(A) MAXIMUM PERIOD.—The maximum  
22                 continuous period of authorized status as an  
23                 H-2A worker (including any extensions) is 3  
24                 years.

1                   “(B) REQUIREMENT TO REMAIN OUTSIDE  
2 THE UNITED STATES.—

3                   “(i) IN GENERAL.—Subject to clause  
4 (ii), in the case of an alien outside the  
5 United States whose period of authorized  
6 status as an H-2A worker (including any  
7 extensions) has expired, the alien may not  
8 again apply for admission to the United  
9 States as an H-2A worker unless the alien  
10 has remained outside the United States for  
11 a continuous period equal to at least  $\frac{1}{5}$   
12 the duration of the alien’s previous period  
13 of authorized status as an H-2A worker  
14 (including any extensions).

15                   “(ii) EXCEPTION.—Clause (i) shall  
16 not apply in the case of an alien if the  
17 alien’s period of authorized status as an  
18 H-2A worker (including any extensions)  
19 was for a period of not more than 10  
20 months and such alien has been outside  
21 the United States for at least 2 months  
22 during the 12 months preceding the date  
23 the alien again is applying for admission to  
24 the United States as an H-2A worker.

1       “(i) SPECIAL RULES FOR ALIENS EMPLOYED AS  
2 SHEEPHERDERS, GOAT HERDERS, DAIRY WORKERS, OR  
3 HORSE WORKERS.—Notwithstanding any provision of the  
4 Emergency Agriculture Relief Act of 2008, an alien admit-  
5 ted under section 101(a)(15)(H)(ii)(a) for employment as  
6 a shepherd, goat herder, dairy worker, or horse work-  
7 er—

8               “(1) may be admitted for an initial period of 12  
9 months;

10              “(2) subject to subsection (j)(5), may have such  
11 initial period of admission extended for a period of  
12 up to 3 years; and

13              “(3) shall not be subject to the requirements of  
14 subsection (h)(5) (relating to periods of absence  
15 from the United States).

16       “(j) ADJUSTMENT TO LAWFUL PERMANENT RESI-  
17 DENT STATUS FOR ALIENS EMPLOYED AS SHEEP-  
18 HERDERS, GOAT HERDERS, DAIRY WORKERS, OR HORSE  
19 WORKERS.—

20              “(1) ELIGIBLE ALIEN.—For purposes of this  
21 subsection, the term ‘eligible alien’ means an alien—

22                      “(A) having nonimmigrant status under  
23 section 101(a)(15)(H)(ii)(a) based on employ-  
24 ment as a shepherd, goat herder, dairy work-  
25 er, or horse worker;

1           “(B) who has maintained such non-  
2           immigrant status in the United States for a cu-  
3           mulative total of 36 months (excluding any pe-  
4           riod of absence from the United States); and

5           “(C) who is seeking to receive an immi-  
6           grant visa under section 203(b)(3)(A)(iii).

7           “(2) CLASSIFICATION PETITION.—In the case  
8           of an eligible alien, the petition under section 204  
9           for classification under section 203(b)(3)(A)(iii) may  
10          be filed by—

11           “(A) the alien’s employer on behalf of the  
12           eligible alien; or

13           “(B) the eligible alien.

14           “(3) NO LABOR CERTIFICATION REQUIRED.—  
15           Notwithstanding section 203(b)(3)(C), no deter-  
16           mination under section 212(a)(5)(A) is required with  
17           respect to an immigrant visa described in paragraph  
18           (1)(C) for an eligible alien.

19           “(4) EFFECT OF PETITION.—The filing of a pe-  
20           tition described in paragraph (2) or an application  
21           for adjustment of status based on the approval of  
22           such a petition shall not constitute evidence of an  
23           alien’s ineligibility for nonimmigrant status under  
24           section 101(a)(15)(H)(ii)(a).

1           “(5) EXTENSION OF STAY.—The Secretary  
2 shall extend the stay of an eligible alien having a  
3 pending or approved classification petition described  
4 in paragraph (2) in 1-year increments until a final  
5 determination is made on the alien’s eligibility for  
6 adjustment of status to that of an alien lawfully ad-  
7 mitted for permanent residence.

8           “(6) CONSTRUCTION.—Nothing in this sub-  
9 section shall be construed to prevent an eligible alien  
10 from seeking adjustment of status in accordance  
11 with any other provision of law.

12 **“SEC. 218C. WORKER PROTECTIONS AND LABOR STAND-**  
13 **ARDS ENFORCEMENT.**

14           “(a) ENFORCEMENT AUTHORITY.—

15           “(1) INVESTIGATION OF COMPLAINTS.—

16           “(A) AGGRIEVED PERSON OR THIRD-PARTY  
17 COMPLAINTS.—The Secretary of Labor shall es-  
18 tablish a process for the receipt, investigation,  
19 and disposition of complaints respecting a peti-  
20 tioner’s failure to meet a condition specified in  
21 section 218(b), or an employer’s misrepresenta-  
22 tion of material facts in an application under  
23 section 218(a). Complaints may be filed by any  
24 aggrieved person or organization (including bar-  
25 gaining representatives). No investigation or

1 hearing shall be conducted on a complaint con-  
2 cerning such a failure or misrepresentation un-  
3 less the complaint was filed not later than 12  
4 months after the date of the failure, or mis-  
5 representation, respectively. The Secretary of  
6 Labor shall conduct an investigation under this  
7 subparagraph if there is reasonable cause to be-  
8 lieve that such a failure or misrepresentation  
9 has occurred.

10 “(B) DETERMINATION ON COMPLAINT.—

11 Under such process, the Secretary of Labor  
12 shall provide, within 30 days after the date  
13 such a complaint is filed, for a determination as  
14 to whether or not a reasonable basis exists to  
15 make a finding described in subparagraph (C),  
16 (D), (E), or (G). If the Secretary of Labor de-  
17 termines that such a reasonable basis exists,  
18 the Secretary of Labor shall provide for notice  
19 of such determination to the interested parties  
20 and an opportunity for a hearing on the com-  
21 plaint, in accordance with section 556 of title 5,  
22 United States Code, within 60 days after the  
23 date of the determination. If such a hearing is  
24 requested, the Secretary of Labor shall make a  
25 finding concerning the matter not later than 60

1 days after the date of the hearing. In the case  
2 of similar complaints respecting the same appli-  
3 cant, the Secretary of Labor may consolidate  
4 the hearings under this subparagraph on such  
5 complaints.

6 “(C) FAILURES TO MEET CONDITIONS.—If  
7 the Secretary of Labor finds, after notice and  
8 opportunity for a hearing, a failure to meet a  
9 condition of paragraph (1)(A), (1)(B), (1)(D),  
10 (1)(F), (2)(A), (2)(B), or (2)(G) of section  
11 218(b), a substantial failure to meet a condition  
12 of paragraph (1)(C), (1)(E), (2)(C), (2)(D),  
13 (2)(E), or (2)(H) of section 218(b), or a mate-  
14 rial misrepresentation of fact in an application  
15 under section 218(a)—

16 “(i) the Secretary of Labor shall no-  
17 tify the Secretary of such finding and may,  
18 in addition, impose such other administra-  
19 tive remedies (including civil money pen-  
20 alties in an amount not to exceed \$1,000  
21 per violation) as the Secretary of Labor  
22 determines to be appropriate; and

23 “(ii) the Secretary may disqualify the  
24 employer from the employment of aliens

1 described in section 101(a)(15)(H)(ii)(a)  
2 for a period of 1 year.

3 “(D) WILLFUL FAILURES AND WILLFUL  
4 MISREPRESENTATIONS.—If the Secretary of  
5 Labor finds, after notice and opportunity for  
6 hearing, a willful failure to meet a condition of  
7 section 218(b), a willful misrepresentation of a  
8 material fact in an application under section  
9 218(a), or a violation of subsection (d)(1)—

10 “(i) the Secretary of Labor shall no-  
11 tify the Secretary of such finding and may,  
12 in addition, impose such other administra-  
13 tive remedies (including civil money pen-  
14 alties in an amount not to exceed \$5,000  
15 per violation) as the Secretary of Labor  
16 determines to be appropriate;

17 “(ii) the Secretary of Labor may seek  
18 appropriate legal or equitable relief to ef-  
19 fectuate the purposes of subsection (d)(1);  
20 and

21 “(iii) the Secretary may disqualify the  
22 employer from the employment of H-2A  
23 workers for a period of 2 years.

24 “(E) DISPLACEMENT OF UNITED STATES  
25 WORKERS.—If the Secretary of Labor finds,

1 after notice and opportunity for hearing, a will-  
2 ful failure to meet a condition of section 218(b)  
3 or a willful misrepresentation of a material fact  
4 in an application under section 218(a), in the  
5 course of which failure or misrepresentation the  
6 employer displaced a United States worker em-  
7 ployed by the employer during the period of em-  
8 ployment on the employer's application under  
9 section 218(a) or during the period of 30 days  
10 preceding such period of employment—

11 “(i) the Secretary of Labor shall no-  
12 tify the Secretary of such finding and may,  
13 in addition, impose such other administra-  
14 tive remedies (including civil money pen-  
15 alties in an amount not to exceed \$15,000  
16 per violation) as the Secretary of Labor  
17 determines to be appropriate; and

18 “(ii) the Secretary may disqualify the  
19 employer from the employment of H-2A  
20 workers for a period of 3 years.

21 “(F) LIMITATIONS ON CIVIL MONEY PEN-  
22 ALTIES.—The Secretary of Labor shall not im-  
23 pose total civil money penalties with respect to  
24 an application under section 218(a) in excess of  
25 \$90,000.

1           “(G) FAILURES TO PAY WAGES OR RE-  
2           QUIRED BENEFITS.—If the Secretary of Labor  
3           finds, after notice and opportunity for a hear-  
4           ing, that the employer has failed to pay the  
5           wages, or provide the housing allowance, trans-  
6           portation, subsistence reimbursement, or guar-  
7           antee of employment, required under section  
8           218A(b), the Secretary of Labor shall assess  
9           payment of back wages, or other required bene-  
10          fits, due any United States worker or H-2A  
11          worker employed by the employer in the specific  
12          employment in question. The back wages or  
13          other required benefits under section 218A(b)  
14          shall be equal to the difference between the  
15          amount that should have been paid and the  
16          amount that actually was paid to such worker.

17          “(2) STATUTORY CONSTRUCTION.—Nothing in  
18          this section shall be construed as limiting the au-  
19          thority of the Secretary of Labor to conduct any  
20          compliance investigation under any other labor law,  
21          including any law affecting migrant and seasonal ag-  
22          ricultural workers, or, in the absence of a complaint  
23          under this section, under section 218 or 218A.

24          “(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF  
25          ACTION.—H-2A workers may enforce the following rights

1 through the private right of action provided in subsection  
2 (c), and no other right of action shall exist under Federal  
3 or State law to enforce such rights:

4           “(1) The providing of housing or a housing al-  
5           lowance as required under section 218A(b)(1).

6           “(2) The reimbursement of transportation as  
7           required under section 218A(b)(2).

8           “(3) The payment of wages required under sec-  
9           tion 218A(b)(3) when due.

10           “(4) The benefits and material terms and con-  
11           ditions of employment expressly provided in the job  
12           offer described in section 218(a)(2), not including  
13           the assurance to comply with other Federal, State,  
14           and local labor laws described in section 218A(c),  
15           compliance with which shall be governed by the pro-  
16           visions of such laws.

17           “(5) The guarantee of employment required  
18           under section 218A(b)(4).

19           “(6) The motor vehicle safety requirements  
20           under section 218A(b)(5).

21           “(7) The prohibition of discrimination under  
22           subsection (d)(2).

23           “(c) PRIVATE RIGHT OF ACTION.—

24           “(1) MEDIATION.—Upon the filing of a com-  
25           plaint by an H-2A worker aggrieved by a violation

1 of rights enforceable under subsection (b), and with-  
2 in 60 days of the filing of proof of service of the  
3 complaint, a party to the action may file a request  
4 with the Federal Mediation and Conciliation Service  
5 to assist the parties in reaching a satisfactory reso-  
6 lution of all issues involving all parties to the dis-  
7 pute. Upon a filing of such request and giving of no-  
8 tice to the parties, the parties shall attempt medi-  
9 ation within the period specified in subparagraph  
10 (B).

11 “(A) MEDIATION SERVICES.—The Federal  
12 Mediation and Conciliation Service shall be  
13 available to assist in resolving disputes arising  
14 under subsection (b) between H-2A workers  
15 and agricultural employers without charge to  
16 the parties.

17 “(B) 90-DAY LIMIT.—The Federal Medi-  
18 ation and Conciliation Service may conduct me-  
19 diation or other nonbinding dispute resolution  
20 activities for a period not to exceed 90 days be-  
21 ginning on the date on which the Federal Medi-  
22 ation and Conciliation Service receives the re-  
23 quest for assistance unless the parties agree to  
24 an extension of this period of time.

25 “(C) AUTHORIZATION.—

1                   “(i) IN GENERAL.—Subject to clause  
2                   (ii), there are authorized to be appro-  
3                   priated to the Federal Mediation and Con-  
4                   ciliation Service \$500,000 for each fiscal  
5                   year to carry out this section.

6                   “(ii) MEDIATION.—Notwithstanding  
7                   any other provision of law, the Director of  
8                   the Federal Mediation and Conciliation  
9                   Service is authorized to conduct the medi-  
10                  ation or other dispute resolution activities  
11                  from any other appropriated funds avail-  
12                  able to the Director and to reimburse such  
13                  appropriated funds when the funds are ap-  
14                  propriated pursuant to this authorization,  
15                  such reimbursement to be credited to ap-  
16                  propriations currently available at the time  
17                  of receipt.

18                  “(2) MAINTENANCE OF CIVIL ACTION IN DIS-  
19                  TRICT COURT BY AGGRIEVED PERSON.—An H-2A  
20                  worker aggrieved by a violation of rights enforceable  
21                  under subsection (b) by an agricultural employer or  
22                  other person may file suit in any district court of the  
23                  United States having jurisdiction over the parties,  
24                  without regard to the amount in controversy, with-  
25                  out regard to the citizenship of the parties, and

1 without regard to the exhaustion of any alternative  
2 administrative remedies under this Act, not later  
3 than 3 years after the date the violation occurs.

4 “(3) ELECTION.—An H-2A worker who has  
5 filed an administrative complaint with the Secretary  
6 of Labor may not maintain a civil action under  
7 paragraph (2) unless a complaint based on the same  
8 violation filed with the Secretary of Labor under  
9 subsection (a)(1) is withdrawn before the filing of  
10 such action, in which case the rights and remedies  
11 available under this subsection shall be exclusive.

12 “(4) PREEMPTION OF STATE CONTRACT  
13 RIGHTS.—Nothing in this Act shall be construed to  
14 diminish the rights and remedies of an H-2A worker  
15 under any other Federal or State law or regulation  
16 or under any collective bargaining agreement, except  
17 that no court or administrative action shall be avail-  
18 able under any State contract law to enforce the  
19 rights created by this Act.

20 “(5) WAIVER OF RIGHTS PROHIBITED.—Agree-  
21 ments by employees purporting to waive or modify  
22 their rights under this Act shall be void as contrary  
23 to public policy, except that a waiver or modification  
24 of the rights or obligations in favor of the Secretary  
25 of Labor shall be valid for purposes of the enforce-

1       ment of this Act. The preceding sentence may not  
2       be construed to prohibit agreements to settle private  
3       disputes or litigation.

4               “(6) AWARD OF DAMAGES OR OTHER EQUI-  
5       TABLE RELIEF.—

6               “(A) If the court finds that the respondent  
7       has intentionally violated any of the rights en-  
8       forceable under subsection (b), it shall award  
9       actual damages, if any, or equitable relief.

10              “(B) Any civil action brought under this  
11       section shall be subject to appeal as provided in  
12       chapter 83 of title 28, United States Code.

13              “(7) WORKERS’ COMPENSATION BENEFITS; EX-  
14       CLUSIVE REMEDY.—

15              “(A) Notwithstanding any other provision  
16       of this section, where a State’s workers’ com-  
17       pensation law is applicable and coverage is pro-  
18       vided for an H-2A worker, the workers’ com-  
19       pensation benefits shall be the exclusive remedy  
20       for the loss of such worker under this section  
21       in the case of bodily injury or death in accord-  
22       ance with such State’s workers’ compensation  
23       law.

24              “(B) The exclusive remedy prescribed in  
25       subparagraph (A) precludes the recovery under

1 paragraph (6) of actual damages for loss from  
2 an injury or death but does not preclude other  
3 equitable relief, except that such relief shall not  
4 include back or front pay or in any manner, di-  
5 rectly or indirectly, expand or otherwise alter or  
6 affect—

7 “(i) a recovery under a State workers’  
8 compensation law; or

9 “(ii) rights conferred under a State  
10 workers’ compensation law.

11 “(8) TOLLING OF STATUTE OF LIMITATIONS.—

12 If it is determined under a State workers’ compensa-  
13 tion law that the workers’ compensation law is not  
14 applicable to a claim for bodily injury or death of an  
15 H-2A worker, the statute of limitations for bringing  
16 an action for actual damages for such injury or  
17 death under subsection (c) shall be tolled for the pe-  
18 riod during which the claim for such injury or death  
19 under such State workers’ compensation law was  
20 pending. The statute of limitations for an action for  
21 actual damages or other equitable relief arising out  
22 of the same transaction or occurrence as the injury  
23 or death of the H-2A worker shall be tolled for the  
24 period during which the claim for such injury or

1 death was pending under the State workers' com-  
2 pensation law.

3 “(9) PRECLUSIVE EFFECT.—Any settlement by  
4 an H-2A worker and an H-2A employer or any per-  
5 son reached through the mediation process required  
6 under subsection (c)(1) shall preclude any right of  
7 action arising out of the same facts between the par-  
8 ties in any Federal or State court or administrative  
9 proceeding, unless specifically provided otherwise in  
10 the settlement agreement.

11 “(10) SETTLEMENTS.—Any settlement by the  
12 Secretary of Labor with an H-2A employer on be-  
13 half of an H-2A worker of a complaint filed with the  
14 Secretary of Labor under this section or any finding  
15 by the Secretary of Labor under subsection  
16 (a)(1)(B) shall preclude any right of action arising  
17 out of the same facts between the parties under any  
18 Federal or State court or administrative proceeding,  
19 unless specifically provided otherwise in the settle-  
20 ment agreement.

21 “(d) DISCRIMINATION PROHIBITED.—

22 “(1) IN GENERAL.—It is a violation of this sub-  
23 section for any person who has filed an application  
24 under section 218(a), to intimidate, threaten, re-  
25 strain, coerce, blacklist, discharge, or in any other

1 manner discriminate against an employee (which  
2 term, for purposes of this subsection, includes a  
3 former employee and an applicant for employment)  
4 because the employee has disclosed information to  
5 the employer, or to any other person, that the em-  
6 ployee reasonably believes evidences a violation of  
7 section 218 or 218A or any rule or regulation per-  
8 taining to section 218 or 218A, or because the em-  
9 ployee cooperates or seeks to cooperate in an inves-  
10 tigation or other proceeding concerning the employ-  
11 er's compliance with the requirements of section 218  
12 or 218A or any rule or regulation pertaining to ei-  
13 ther of such sections.

14           “(2) DISCRIMINATION AGAINST H-2A WORK-  
15 ERS.—It is a violation of this subsection for any per-  
16 son who has filed an application under section  
17 218(a), to intimidate, threaten, restrain, coerce,  
18 blacklist, discharge, or in any manner discriminate  
19 against an H-2A employee because such worker has,  
20 with just cause, filed a complaint with the Secretary  
21 of Labor regarding a denial of the rights enumer-  
22 ated and enforceable under subsection (b) or insti-  
23 tuted, or caused to be instituted, a private right of  
24 action under subsection (c) regarding the denial of  
25 the rights enumerated under subsection (b), or has

1 testified or is about to testify in any court pro-  
2 ceeding brought under subsection (c).

3 “(e) AUTHORIZATION TO SEEK OTHER APPRO-  
4 PRIATE EMPLOYMENT.—The Secretary of Labor and the  
5 Secretary shall establish a process under which an H-2A  
6 worker who files a complaint regarding a violation of sub-  
7 section (d) and is otherwise eligible to remain and work  
8 in the United States may be allowed to seek other appro-  
9 priate employment in the United States for a period not  
10 to exceed the maximum period of stay authorized for such  
11 nonimmigrant classification.

12 “(f) ROLE OF ASSOCIATIONS.—

13 “(1) VIOLATION BY A MEMBER OF AN ASSOCIA-  
14 TION.—An employer on whose behalf an application  
15 is filed by an association acting as its agent is fully  
16 responsible for such application, and for complying  
17 with the terms and conditions of sections 218 and  
18 218A, as though the employer had filed the applica-  
19 tion itself. If such an employer is determined, under  
20 this section, to have committed a violation, the pen-  
21 alty for such violation shall apply only to that mem-  
22 ber of the association unless the Secretary of Labor  
23 determines that the association or other member  
24 participated in, had knowledge, or reason to know,  
25 of the violation, in which case the penalty shall be

1 invoked against the association or other association  
2 member as well.

3 “(2) VIOLATIONS BY AN ASSOCIATION ACTING  
4 AS AN EMPLOYER.—If an association filing an appli-  
5 cation as a sole or joint employer is determined to  
6 have committed a violation under this section, the  
7 penalty for such violation shall apply only to the as-  
8 sociation unless the Secretary of Labor determines  
9 that an association member or members participated  
10 in or had knowledge, or reason to know of the viola-  
11 tion, in which case the penalty shall be invoked  
12 against the association member or members as well.

13 **“SEC. 218D. DEFINITIONS.**

14 “For purposes of this section and section 218, 218A,  
15 218B, and 218C:

16 “(1) AGRICULTURAL EMPLOYMENT.—The term  
17 ‘agricultural employment’ means any service or ac-  
18 tivity that is considered to be agricultural under sec-  
19 tion 3(f) of the Fair Labor Standards Act of 1938  
20 (29 U.S.C. 203(f)) or agricultural labor under sec-  
21 tion 3121(g) of the Internal Revenue Code of 1986  
22 or the performance of agricultural labor or services  
23 described in section 101(a)(15)(H)(ii)(a).

24 “(2) BONA FIDE UNION.—The term ‘bona fide  
25 union’ means any organization in which employees

1 participate and which exists for the purpose of deal-  
2 ing with employers concerning grievances, labor dis-  
3 putes, wages, rates of pay, hours of employment, or  
4 other terms and conditions of work for agricultural  
5 employees. Such term does not include an organiza-  
6 tion formed, created, administered, supported, domi-  
7 nated, financed, or controlled by an employer or em-  
8 ployer association or its agents or representatives.

9 “(3) DISPLACE.—The term ‘displace’, in the  
10 case of an application with respect to 1 or more H-  
11 2A workers by an employer, means laying off a  
12 United States worker from a job for which the H-  
13 2A worker or workers is or are sought.

14 “(4) ELIGIBLE.—The term ‘eligible’, when used  
15 with respect to an individual, means an individual  
16 who is not an unauthorized alien (as defined in sec-  
17 tion 274A).

18 “(5) EMPLOYER.—The term ‘employer’ means  
19 any person or entity, including any farm labor con-  
20 tractor and any agricultural association, that em-  
21 ploys workers in agricultural employment.

22 “(6) H-2A EMPLOYER.—The term ‘H-2A em-  
23 ployer’ means an employer who seeks to hire 1 or  
24 more nonimmigrant aliens described in section  
25 101(a)(15)(H)(ii)(a).

1           “(7) H-2A WORKER.—The term ‘H-2A worker’  
2 means a nonimmigrant described in section  
3 101(a)(15)(H)(ii)(a).

4           “(8) JOB OPPORTUNITY.—The term ‘job oppor-  
5 tunity’ means a job opening for temporary or sea-  
6 sonal full-time employment at a place in the United  
7 States to which United States workers can be re-  
8 ferred.

9           “(9) LAYING OFF.—

10           “(A) IN GENERAL.—The term ‘laying off’,  
11 with respect to a worker—

12           “(i) means to cause the worker’s loss  
13 of employment, other than through a dis-  
14 charge for inadequate performance, viola-  
15 tion of workplace rules, cause, voluntary  
16 departure, voluntary retirement, contract  
17 impossibility (as described in section  
18 218A(b)(4)(D)), or temporary suspension  
19 of employment due to weather, markets, or  
20 other temporary conditions; but

21           “(ii) does not include any situation in  
22 which the worker is offered, as an alter-  
23 native to such loss of employment, a simi-  
24 lar employment opportunity with the same  
25 employer (or, in the case of a placement of

1 a worker with another employer under sec-  
2 tion 218(b)(2)(E), with either employer de-  
3 scribed in such section) at equivalent or  
4 higher compensation and benefits than the  
5 position from which the employee was dis-  
6 charged, regardless of whether or not the  
7 employee accepts the offer.

8 “(B) STATUTORY CONSTRUCTION.—Noth-  
9 ing in this paragraph is intended to limit an  
10 employee’s rights under a collective bargaining  
11 agreement or other employment contract.

12 “(10) REGULATORY DROUGHT.—The term ‘reg-  
13 ulatory drought’ means a decision subsequent to the  
14 filing of the application under section 218 by an en-  
15 tity not under the control of the employer making  
16 such filing which restricts the employer’s access to  
17 water for irrigation purposes and reduces or limits  
18 the employer’s ability to produce an agricultural  
19 commodity, thereby reducing the need for labor.

20 “(11) SEASONAL.—Labor is performed on a  
21 ‘seasonal’ basis if—

22 “(A) ordinarily, it pertains to or is of the  
23 kind exclusively performed at certain seasons or  
24 periods of the year; and

1           “(B) from its nature, it may not be contin-  
2           uous or carried on throughout the year.

3           “(12) SECRETARY.—Except as otherwise pro-  
4           vided, the term ‘Secretary’ means the Secretary of  
5           Homeland Security.

6           “(13) TEMPORARY.—A worker is employed on a  
7           ‘temporary’ basis where the employment is intended  
8           not to exceed 10 months.

9           “(14) UNITED STATES WORKER.—The term  
10          ‘United States worker’ means any worker, whether  
11          a national of the United States, an alien lawfully ad-  
12          mitted for permanent residence, or any other alien,  
13          who is authorized to work in the job opportunity  
14          within the United States, except an alien admitted  
15          or otherwise provided status under section  
16          101(a)(15)(H)(ii)(a).”.

17          (b) TABLE OF CONTENTS.—The table of contents of  
18          the Immigration and Nationality Act (8 U.S.C. 1101 et  
19          seq.) is amended by striking the item relating to section  
20          218 and inserting the following:

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

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

          “Sec. 218B. Procedure for admission and extension of stay of H-2A workers.

          “Sec. 218C. Worker protections and labor standards enforcement.

          “Sec. 218D. Definitions.”.

21          (c) SUNSET.—The amendments made by this section  
22          shall be effective during the 5-year period beginning on  
23          the date that is 1 year after the date of the enactment

1 of this Act. Any immigration benefit provided pursuant  
2 to such amendments shall expire at the end of such 5-  
3 year period.

## 4                   **Subtitle C—Miscellaneous** 5                   **Provisions**

### 6 **SEC. 8031. DETERMINATION AND USE OF USER FEES.**

7           (a) SCHEDULE OF FEES.—The Secretary shall estab-  
8 lish and periodically adjust a schedule of fees for the em-  
9 ployment of aliens pursuant to the amendment made by  
10 section 8021(a) and a collection process for such fees from  
11 employers. Such fees shall be the only fees chargeable to  
12 employers for services provided under such amendment.

13           (b) DETERMINATION OF SCHEDULE.—

14               (1) IN GENERAL.—The schedule under sub-  
15 section (a) shall reflect a fee rate based on the num-  
16 ber of job opportunities indicated in the employer's  
17 application under section 218 of the Immigration  
18 and Nationality Act, as amended by section 8021,  
19 and sufficient to provide for the direct costs of pro-  
20 viding services related to an employer's authorization  
21 to employ aliens pursuant to the amendment made  
22 by section 8021(a), to include the certification of eli-  
23 gible employers, the issuance of documentation, and  
24 the admission of eligible aliens.

25               (2) PROCEDURE.—

1           (A) IN GENERAL.—In establishing and ad-  
2           justing such a schedule, the Secretary shall  
3           comply with Federal cost accounting and fee  
4           setting standards.

5           (B) PUBLICATION AND COMMENT.—The  
6           Secretary shall publish in the Federal Register  
7           an initial fee schedule and associated collection  
8           process and the cost data or estimates upon  
9           which such fee schedule is based, and any sub-  
10          sequent amendments thereto, pursuant to which  
11          public comment shall be sought and a final rule  
12          issued.

13          (c) USE OF PROCEEDS.—Notwithstanding any other  
14          provision of law, all proceeds resulting from the payment  
15          of the fees pursuant to the amendment made by section  
16          8021(a) shall be available without further appropriation  
17          and shall remain available without fiscal year limitation  
18          to reimburse the Secretary, the Secretary of State, and  
19          the Secretary of Labor for the costs of carrying out sec-  
20          tions 218 and 218B of the Immigration and Nationality  
21          Act, as amended and added, respectively, by section 8021,  
22          and the provisions of this title.

23          **SEC. 8032. RULEMAKING.**

24          (a) REQUIREMENT FOR THE SECRETARY TO CON-  
25          SULT.—The Secretary shall consult with the Secretary of

1 Labor and the Secretary of Agriculture during the promul-  
2 gation of all regulations to implement the duties of the  
3 Secretary under this title and the amendments made by  
4 this title.

5 (b) REQUIREMENT FOR THE SECRETARY OF STATE  
6 TO CONSULT.—The Secretary of State shall consult with  
7 the Secretary, the Secretary of Labor, and the Secretary  
8 of Agriculture on all regulations to implement the duties  
9 of the Secretary of State under this title and the amend-  
10 ments made by this title.

11 (c) REQUIREMENT FOR THE SECRETARY OF LABOR  
12 TO CONSULT.—The Secretary of Labor shall consult with  
13 the Secretary of Agriculture and the Secretary on all regu-  
14 lations to implement the duties of the Secretary of Labor  
15 under this title and the amendments made by this title.

16 (d) DEADLINE FOR ISSUANCE OF REGULATIONS.—  
17 All regulations to implement the duties of the Secretary,  
18 the Secretary of State, and the Secretary of Labor created  
19 under sections 218, 218A, 218B, 218C, and 218D of the  
20 Immigration and Nationality Act, as amended or added  
21 by section 8021, shall take effect on the effective date of  
22 section 8021 and shall be issued not later than 1 year  
23 after the date of enactment of this Act.

1 **SEC. 8033. REPORTS TO CONGRESS.**

2 (a) ANNUAL REPORT.—Not later than September 30  
3 of each year, the Secretary shall submit a report to Con-  
4 gress that identifies, for the previous year—

5 (1) the number of job opportunities approved  
6 for employment of aliens admitted under section  
7 101(a)(15)(H)(ii)(a) of the Immigration and Nation-  
8 ality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), and the  
9 number of workers actually admitted, disaggregated  
10 by State and by occupation;

11 (2) the number of such aliens reported to have  
12 abandoned employment pursuant to subsection  
13 218B(e)(2) of such Act;

14 (3) the number of such aliens who departed the  
15 United States within the period specified in sub-  
16 section 218B(d) of such Act;

17 (4) the number of aliens who applied for adjust-  
18 ment of status pursuant to section 8011(a); and

19 (5) the number of such aliens whose status was  
20 adjusted under section 8011(a).

21 (b) IMPLEMENTATION REPORT.—Not later than 180  
22 days after the date of the enactment of this Act, the Sec-  
23 retary shall prepare and submit to Congress a report that  
24 describes the measures being taken and the progress made  
25 in implementing this title.

1 TITLE IX  
2 TELEWORK ENHANCEMENT ACT OF 2008

3 **SECTION 9001. SHORT TITLE.**

4 This Act may be cited as the “Telework Enhance-  
5 ment Act of 2008”.

6 **SEC. 9002. DEFINITIONS.**

7 In this Act:

8 (1) **EMPLOYEE.**—The term “employee” has the  
9 meaning given that term by section 2105 of title 5,  
10 United States Code.

11 (2) **EXECUTIVE AGENCY.**—The term “executive  
12 agency” has the meaning given that term by section  
13 105 of title 5, United States Code.

14 (3) **NONCOMPLIANT.**—The term “noncompli-  
15 ant” means not conforming to the requirements  
16 under this Act.

17 (4) **TELEWORK.**—The term “telework” means a  
18 work arrangement in which an employee regularly  
19 performs officially assigned duties at home or other  
20 worksites geographically convenient to the residence  
21 of the employee during at least 20 percent of each  
22 pay period that the employee is performing officially  
23 assigned duties.

1 **SEC. 9003. EXECUTIVE AGENCIES TELEWORK REQUIRE-**  
2 **MENT.**

3 (a) TELEWORK ELIGIBILITY.—Not later than 180  
4 days after the date of enactment of this Act, the head of  
5 each executive agency shall—

6 (1) establish a policy under which eligible em-  
7 ployees of the agency may be authorized to telework;

8 (2) determine the eligibility for all employees of  
9 the agency to participate in telework; and

10 (3) notify all employees of the agency of their  
11 eligibility to telework.

12 (b) PARTICIPATION.—The policy described under  
13 subsection (a) shall—

14 (1) ensure that telework does not diminish em-  
15 ployee performance or agency operations;

16 (2) require a written agreement between an  
17 agency manager and an employee authorized to  
18 telework in order for that employee to participate in  
19 telework;

20 (3) provide that an employee may not be au-  
21 thorized to telework if the performance of that em-  
22 ployee does not comply with the terms of the written  
23 agreement between the agency manager and that  
24 employee;

25 (4) except in emergency situations as deter-  
26 mined by an agency head, not apply to any employee

1 of the agency whose official duties require daily  
2 physical presence for activity with equipment or han-  
3 dling of secure materials; and

4 (5) determine the use of telework as part of the  
5 continuity of operations plans the agency in the  
6 event of an emergency.

7 **SEC. 9004. TRAINING AND MONITORING.**

8 The head of each executive agency shall ensure  
9 that—

10 (1) an interactive telework training program is  
11 provided to—

12 (A) employees eligible to participate in the  
13 telework program of the agency; and

14 (B) all managers of teleworkers;

15 (2) no distinction is made between teleworkers  
16 and nonteleworkers for the purposes of performance  
17 appraisals; and

18 (3) when determining what constitutes dimin-  
19 ished employee performance, the agency shall con-  
20 sult the established performance management guide-  
21 lines of the Office of Personnel Management.

22 **SEC. 9005. POLICY AND SUPPORT.**

23 (a) AGENCY CONSULTATION WITH THE OFFICE OF  
24 PERSONNEL MANAGEMENT.—Each executive agency shall

1 consult with the Office of Personnel Management in devel-  
2 oping telework policies.

3 (b) GUIDANCE AND CONSULTATION.—The Office of  
4 Personnel Management shall—

5 (1) provide policy and policy guidance for  
6 telework in the areas of pay and leave, agency clo-  
7 sure, performance management, official worksite, re-  
8 cruitment and retention, and accommodations for  
9 employees with disabilities; and

10 (2) consult with—

11 (A) the Federal Emergency Management  
12 Agency on policy and policy guidance for  
13 telework in the areas of continuation of oper-  
14 ations and long-term emergencies; and

15 (B) the General Services Administration  
16 on policy and policy guidance for telework in  
17 the areas of telework centers, travel, technology,  
18 and equipment.

19 (c) CONTINUITY OF OPERATIONS PLANS.—During  
20 any period that an agency is operating under a continuity  
21 of operations plan, that plan shall supersede any telework  
22 policy.

23 (d) TELEWORK WEBSITE.—The Office of Personnel  
24 Management shall—

25 (1) maintain a central telework website; and

1 (2) include on that website related—

2 (A) telework links;

3 (B) announcements;

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

6 (D) guidance submitted by the Federal  
7 Emergency Management Agency, and the Gen-  
8 eral Services Administration to the Office of  
9 Personnel Management not later than 10 busi-  
10 ness days after the date of submission.

11 **SEC. 9006. TELEWORK MANAGING OFFICER.**

12 (a) IN GENERAL.—

13 (1) APPOINTMENT.—The head of each executive  
14 agency shall appoint an employee of the agency as  
15 the Telework Managing Officer. The Telework Man-  
16 aging Officer shall be established within the Office  
17 of the Chief Human Capital Officer or a comparable  
18 office with similar functions.

19 (2) TELEWORK COORDINATORS.—

20 (A) APPROPRIATIONS ACT, 2004.—Section  
21 627 of the Departments of Commerce, Justice,  
22 and State, the Judiciary, and Related Agencies  
23 Appropriations Act, 2004 (Public Law 108–  
24 199; 118 Stat. 99) is amended by striking “des-  
25 ignate a ‘Telework Coordinator’ to be” and in-

1           serting “appoint a Telework Managing Officer  
2           to be”.

3                   (B) APPROPRIATIONS ACT, 2005.—Section  
4           622 of the Departments of Commerce, Justice,  
5           and State, the Judiciary, and Related Agencies  
6           Appropriations Act, 2005 (Public Law 108–  
7           447; 118 Stat. 2919) is amended by striking  
8           “designate a ‘Telework Coordinator’ to be” and  
9           inserting “appoint a Telework Managing Officer  
10          to be”.

11          (b) DUTIES.—The Telework Managing Officer  
12          shall—

13                   (1) be devoted to policy development and imple-  
14          mentation related to agency telework programs;

15                   (2) serve as—

16                           (A) an advisor for agency leadership, in-  
17          cluding the Chief Human Capital Officer;

18                           (B) a resource for managers and employ-  
19          ees; and

20                           (C) a primary agency point of contact for  
21          the Office of Personnel Management on  
22          telework matters; and

23                   (3) perform other duties as the applicable ap-  
24          pointing authority may assign.

1 **SEC. 9007. ANNUAL REPORT TO CONGRESS.**

2 (a) SUBMISSION OF REPORTS.—Not later than 18  
3 months after the date of enactment of this Act and on  
4 an annual basis thereafter, the Director of the Office of  
5 Personnel Management shall—

6 (1) submit a report addressing the telework  
7 programs of each executive agency to—

8 (A) the Committee on Homeland Security  
9 and Governmental Affairs of the Senate; and

10 (B) the Committee on Oversight and Gov-  
11 ernment Reform of the House of Representa-  
12 tives; and

13 (2) transmit a copy of the report to the Comp-  
14 troller General and the Office of Management and  
15 Budget.

16 (b) CONTENTS.—Each report submitted under this  
17 section shall include—

18 (1) the telework policy, the measures in place to  
19 carry out the policy, and an analysis of employee  
20 telework participation during the preceding 12-  
21 month period provided by each executive agency;

22 (2) an assessment of the progress of each agen-  
23 cy in maximizing telework opportunities for employ-  
24 ees of that agency without diminishing employee per-  
25 formance or agency operations;

1           (3) the definition of telework and telework poli-  
2           cies and any modifications to such definitions;

3           (4) the degree of participation by employees of  
4           each agency in teleworking during the period covered  
5           by the evaluation, including—

6                   (A) the number and percent of the employ-  
7                   ees in the agency who are eligible to telework;

8                   (B) the number and percent of employees  
9                   who engage in telework;

10                   (C) the number and percent of eligible em-  
11                   ployees in each agency who have declined the  
12                   opportunity to telework; and

13                   (D) the number of employees who were not  
14                   authorized, willing, or able to telework and the  
15                   reason;

16           (5) the extent to which barriers to maximize  
17           telework opportunities have been identified and  
18           eliminated; and

19           (6) best practices in agency telework programs.

20 **SEC. 9008. COMPLIANCE OF EXECUTIVE AGENCIES.**

21           (a) **EXECUTIVE AGENCIES.**—An executive agency  
22 shall be in compliance with this Act if each employee of  
23 that agency participating in telework regularly performs  
24 officially assigned duties at home or other worksites geo-  
25 graphically convenient to the residence of the employee

1 during at least 20 percent of each pay period that the em-  
2 ployee is performing officially assigned duties.

3 (b) AGENCY MANAGER REPORTS.—Not later than  
4 180 days after the establishment of a policy described  
5 under section 9003, and annually thereafter, each agency  
6 manager shall submit a report to the Chief Human Capital  
7 Officer and Telework Managing Officer of that agency  
8 that contains a summary of—

9 (1) efforts to promote telework opportunities  
10 for employees supervised by that manager; and

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

13 (c) CHIEF HUMAN CAPITAL OFFICER REPORTS.—

14 (1) IN GENERAL.—Each year the Chief Human  
15 Capital Officer of each agency, in consultation with  
16 the Telework Managing Officer of that agency, shall  
17 submit a report to the Chair and Vice Chair of the  
18 Chief Human Capital Offices Council on agency  
19 management efforts to promote telework.

20 (2) REVIEW AND INCLUSION OF RELEVANT IN-  
21 FORMATION.—The Chair and Vice Chair of the  
22 Chief Human Capital Offices Council shall—

23 (A) review the reports submitted under  
24 paragraph (1);

1 (B) include relevant information from the  
2 submitted reports in the annual report to Con-  
3 gress required under section 9007(b)(2); and

4 (C) use that relevant information for other  
5 purposes related to the strategic management  
6 of human capital.

7 (d) COMPLIANCE REPORTS.—Not later than 90 days  
8 after the date of submission of each report under section  
9 9007, the Office of Management and Budget shall submit  
10 a report to Congress that—

11 (1) identifies and recommends corrective ac-  
12 tions and time frames for each executive agency that  
13 the Office of Management and Budget determines is  
14 noncompliant; and

15 (2) describes progress of noncompliant execu-  
16 tive agencies, justifications of any continuing non-  
17 compliance, and any recommendations for corrective  
18 actions planned by the Office of Management and  
19 Budget or the executive agency to eliminate non-  
20 compliance.

21 **SEC. 9009. EXTENSION OF TRAVEL EXPENSES TEST PRO-**  
22 **GRAMS.**

23 (a) IN GENERAL.—Section 5710 of title 5, United  
24 States Code, is amended—



1 avoiding United States payroll tax contributions for such  
2 employees.

3 EXTENSION OF EB-5 REGIONAL CENTER PILOT PROGRAM

4 SEC. 10004. Section 610(b) of the Departments of  
5 Commerce, Justice, and State, the Judiciary, and Related  
6 Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note)  
7 is amended by striking “for 15 years” and inserting “for  
8 20 years”.

9 INTERIM RELIEF FOR SKILLED IMMIGRANT WORKERS

10 SEC. 10005. (a) RECAPTURE OF UNUSED EMPLOY-  
11 MENT-BASED VISA NUMBERS.—Subsection (d) of section  
12 106 of the American Competitiveness in the Twenty-first  
13 Century Act of 2000 (Public Law 106-313; 8 U.S.C. 1153  
14 note) is amended—

15 (1) in paragraph (1)—

16 (A) by inserting “1994, 1996, 1997,  
17 1998,” after “available in fiscal year”;

18 (B) by striking “or 2004” and inserting  
19 “2004, or 2006”; and

20 (C) by striking “shall be available” and all  
21 that follows through the end and inserting  
22 “shall be available only to—

23 “(A) an employment-based immigrant  
24 under paragraph (1), (2), (3)(A)(i), or  
25 (3)(A)(ii) of section 203(b) of the Immigration  
26 and Nationality Act (8 U.S.C. 1153(b)), except

1 for employment-based immigrants whose peti-  
2 tions are or have been approved based on  
3 Schedule A, Group I as defined in section 656.5  
4 of title 20, Code of Federal Regulations; or

5 “(B) a spouse or child accompanying or  
6 following to join such an employment-based im-  
7 migrant under section 203(d) of such Act (8  
8 U.S.C. 1153(d)).”;

9 (2) in paragraph (2)—

10 (A) in subparagraph (A), by striking  
11 “years 1999 through 2004” and inserting “year  
12 1994 and each subsequent fiscal year”; and

13 (B) in subparagraph (B)—

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

15 (ii) by striking clause (ii); and

16 (3) by adding at the end the following new  
17 paragraph:

18 “(4) EMPLOYMENT-BASED VISA RECAPTURE  
19 FEE.—A fee shall be paid in connection with any pe-  
20 tition seeking an employment-based immigrant visa  
21 number recaptured under paragraph (1), known as  
22 the Employment-Based Visa Recapture Fee, in the  
23 amount of \$1500. Such Fee may not be charged for  
24 a dependent accompanying or following to join such  
25 employment-based immigrant.”.

1 (b) DISPOSITION OF FEES.—

2 (1) IMMIGRATION EXAMINATION FEE AC-  
3 COUNT.—The fees described in paragraph (2) shall  
4 be treated as adjudication fees and deposited as off-  
5 setting receipts into the Immigration Examinations  
6 Fee Account in the Treasury of the United States  
7 under section 286(m) of the Immigration and Na-  
8 tionality Act (8 U.S.C. 1356(m)).

9 (2) FEES DESCRIBED.—The fees described in  
10 this paragraph are the following:

11 (A) Any Employment-Based Visa Recap-  
12 ture Fee collected pursuant to paragraph (4) of  
13 section 106(d) of the American Competitiveness  
14 in the Twenty-first Century Act of 2000, as  
15 added by subsection (a)(3).

16 (B) Any Supplemental Adjustment of Sta-  
17 tus Application Fee collected pursuant to para-  
18 graph (3) of subsection (n) of section 245 of  
19 the Immigration and Nationality Act, as added  
20 by subsection (c)(1).

21 (c) RETAINING GREEN CARD APPLICANTS WORKING  
22 IN THE UNITED STATES.—

23 (1) IN GENERAL.—Section 245 of the Immigra-  
24 tion and Nationality Act (8 U.S.C. 1255) is amend-  
25 ed by adding at the end the following:

1       “(n) ADJUSTMENT OF STATUS FOR EMPLOYMENT-  
2 BASED IMMIGRANTS.—

3               “(1) ELIGIBILITY.—The Secretary of Homeland  
4 Security shall provide for the filing of an adjustment  
5 application by an alien (and any eligible dependents  
6 of such alien) who has an approved or pending peti-  
7 tion under subparagraph (E) or (F) of section  
8 204(a)(1), regardless of whether an immigrant visa  
9 is immediately available at the time the application  
10 is filed.

11              “(2) VISA AVAILABILITY.—An application filed  
12 pursuant to paragraph (1) shall not be approved  
13 until an immigrant visa becomes available.

14              “(3) FEES.—If an application is filed pursuant  
15 to paragraph (1) at a time at which a visa is not  
16 immediately available, a fee, known as the Supple-  
17 mental Adjustment of Status Application Fee, in the  
18 amount of \$1500 shall be paid on behalf of the ben-  
19 eficiary of such petition. Such Fee may not be  
20 charged for a dependent accompanying or following  
21 to join such beneficiary.”.

22              “(2) REPORT.—Not later than 4 years after the  
23 date of the enactment of this Act, the Secretary of  
24 Homeland Security shall submit to Congress a re-  
25 port on the implementation of subsection (n) of sec-

1       tion 245 of the Immigration and Nationality Act (8  
2       U.S.C. 1255), as added by paragraph (1).

3           (3) REPEAL.—Unless a law is enacted that re-  
4       peals this paragraph, the amendments made by  
5       paragraph (1) shall be repealed on the date that is  
6       5 years after the date of the enactment of this Act.

7       SEC. 10006. NURSING SHORTAGE RELIEF. (a) IN-  
8       CREASING VISA NUMBERS.—Section 106 of the American  
9       Competitiveness in the Twenty-first Century Act of 2000  
10      (Public Law 106–313; 8 U.S.C. 1153 note) is amended  
11      by adding at the end the following:

12       “(e) VISA SHORTAGE RELIEF FOR NURSES AND  
13      PHYSICAL THERAPISTS.—

14           “(1) IN GENERAL.—Subject to paragraph (2),  
15      for petitions filed during the period beginning on the  
16      date of the enactment of the Emergency Nursing  
17      Supply Relief Act and ending on September 30,  
18      2011, for employment-based immigrants (and their  
19      family members accompanying or following to join  
20      under section 203(d) of the Immigration and Na-  
21      tionality Act (8 U.S.C. 1153(d)), which are or have  
22      been approved based on Schedule A, Group I as de-  
23      fined in section 656.5 of title 20, Code of Federal  
24      Regulations, as promulgated by the Secretary of  
25      Labor, the numerical limitations set forth in sections

1 201(d) and 202(a) of such Act (8 U.S.C. 1151(d)  
2 and 1152(a)) shall not apply.

3 “(2) LIMITATION ON NUMBER OF VISAS.—The  
4 Secretary of State may not issue more than 20,000  
5 immigrant visa numbers in any one fiscal year (plus  
6 any available visa numbers under this paragraph not  
7 used during the preceding fiscal year) to principal  
8 beneficiaries of petitions pursuant to paragraph (1).

9 “(3) EXPEDITED REVIEW.—The Secretary of  
10 Homeland Security shall provide a process for re-  
11 viewing and acting upon petitions with respect to  
12 immigrants described in paragraph (1) not later  
13 than 30 days after the date on which a completed  
14 petition has been filed.

15 “(f) FEE FOR USE OF VISAS UNDER SUBSECTION  
16 (a).—

17 “(1) IN GENERAL.—The Secretary of Homeland  
18 Security shall impose a fee upon each petitioning  
19 employer who uses a visa provided under subsection  
20 (e) to provide employment for an alien as a profes-  
21 sional nurse, except that—

22 “(A) such fee shall be in the amount of  
23 \$1,500 for each such alien nurse (but not for  
24 dependents accompanying or following to join  
25 who are not professional nurses); and

1           “(B) no fee shall be imposed for the use of  
2 such visas if the employer demonstrates to the  
3 Secretary that—

4           “(i) the employer is a health care fa-  
5 cility that is located in a county or parish  
6 that received individual and public assist-  
7 ance pursuant to Major Disaster Declara-  
8 tion number 1603 or 1607; or

9           “(ii) the employer is a health care fa-  
10 cility that has been designated as a Health  
11 Professional Shortage Area facility by the  
12 Secretary of Health and Human Services  
13 as defined in section 332 of the Public  
14 Health Service Act (42 U.S.C. 254e).

15           “(2) FEE COLLECTION.—A fee imposed by the  
16 Secretary of Homeland Security pursuant to para-  
17 graph (1) shall be collected by the Secretary as a  
18 condition of approval of an application for adjust-  
19 ment of status by the beneficiary of a petition or by  
20 the Secretary of State as a condition of issuance of  
21 a visa to such beneficiary.”.

22           (b) CAPITATION GRANTS TO INCREASE THE NUM-  
23 BER OF NURSING FACULTY AND STUDENTS; DOMESTIC  
24 NURSING ENHANCEMENT ACCOUNT.—Part D of title VIII

1 of the Public Health Service Act (42 U.S.C. 296p et seq.)  
2 is amended by adding at the end the following:

3 **“SEC. 832. CAPITATION GRANTS.**

4       “(a) IN GENERAL.—For the purpose described in  
5 subsection (b), the Secretary, acting through the Health  
6 Resources and Services Administration, shall award a  
7 grant each fiscal year in an amount determined in accord-  
8 ance with subsection (c) to each eligible school of nursing  
9 that submits an application in accordance with this sec-  
10 tion.

11       “(b) PURPOSE.—A funding agreement for a grant  
12 under this section is that the eligible school of nursing  
13 involved will expend the grant to increase the number of  
14 nursing faculty and students at the school, including by  
15 hiring new faculty, retaining current faculty, purchasing  
16 educational equipment and audiovisual laboratories, en-  
17 hancing clinical laboratories, repairing and expanding in-  
18 frastructure, or recruiting students.

19       “(c) GRANT COMPUTATION.—

20               “(1) AMOUNT PER STUDENT.—Subject to para-  
21 graph (2), the amount of a grant to an eligible  
22 school of nursing under this section for a fiscal year  
23 shall be the total of the following:

1           “(A) \$1,800 for each full-time or part-time  
2 student who is enrolled at the school in a grad-  
3 uate program in nursing that—

4                   “(i) leads to a master’s degree, a doc-  
5 toral degree, or an equivalent degree; and

6                   “(ii) prepares individuals to serve as  
7 faculty through additional course work in  
8 education and ensuring competency in an  
9 advanced practice area.

10           “(B) \$1,405 for each full-time or part-time  
11 student who—

12                   “(i) is enrolled at the school in a pro-  
13 gram in nursing leading to a bachelor of  
14 science degree, a bachelor of nursing de-  
15 gree, a graduate degree in nursing if such  
16 program does not meet the requirements of  
17 subparagraph (A), or an equivalent degree;  
18 and

19                   “(ii) has not more than 3 years of  
20 academic credits remaining in the pro-  
21 gram.

22           “(C) \$966 for each full-time or part-time  
23 student who is enrolled at the school in a pro-  
24 gram in nursing leading to an associate degree  
25 in nursing or an equivalent degree.

1           “(2) LIMITATION.—In calculating the amount  
2 of a grant to a school under paragraph (1), the Sec-  
3 retary may not make a payment with respect to a  
4 particular student—

5           “(A) for more than 2 fiscal years in the  
6 case of a student described in paragraph (1)(A)  
7 who is enrolled in a graduate program in nurs-  
8 ing leading to a master’s degree or an equiva-  
9 lent degree;

10           “(B) for more than 4 fiscal years in the  
11 case of a student described in paragraph (1)(A)  
12 who is enrolled in a graduate program in nurs-  
13 ing leading to a doctoral degree or an equiva-  
14 lent degree;

15           “(C) for more than 3 fiscal years in the  
16 case of a student described in paragraph  
17 (1)(B); or

18           “(D) for more than 2 fiscal years in the  
19 case of a student described in paragraph  
20 (1)(C).

21           “(d) ELIGIBILITY.—In this section, the term ‘eligible  
22 school of nursing’ means a school of nursing that—

23           “(1) is accredited by a nursing accrediting  
24 agency recognized by the Secretary of Education;

1           “(2) has a passage rate on the National Council  
2           Licensure Examination for Registered Nurses of not  
3           less than 80 percent for each of the 3 academic  
4           years preceding submission of the grant application;  
5           and

6           “(3) has a graduation rate (based on the num-  
7           ber of students in a class who graduate relative to,  
8           for a baccalaureate program, the number of students  
9           who were enrolled in the class at the beginning of  
10          junior year or, for an associate degree program, the  
11          number of students who were enrolled in the class  
12          at the end of the first year) of not less than 80 per-  
13          cent for each of the 3 academic years preceding sub-  
14          mission of the grant application.

15          “(e) REQUIREMENTS.—The Secretary may award a  
16          grant under this section to an eligible school of nursing  
17          only if the school gives assurances satisfactory to the Sec-  
18          retary that, for each academic year for which the grant  
19          is awarded, the school will comply with the following:

20                  “(1) The school will maintain a passage rate on  
21                  the National Council Licensure Examination for  
22                  Registered Nurses of not less than 80 percent.

23                  “(2) The school will maintain a graduation rate  
24                  (as described in subsection (d)(3)) of not less than  
25                  80 percent.

1           “(3)(A) Subject to subparagraphs (B) and (C),  
2           the first-year enrollment of full-time nursing stu-  
3           dents in the school will exceed such enrollment for  
4           the preceding academic year by 5 percent or 5 stu-  
5           dents, whichever is greater.

6           “(B) Subparagraph (A) shall not apply to the  
7           first academic year for which a school receives a  
8           grant under this section.

9           “(C) With respect to any academic year, the  
10          Secretary may waive application of subparagraph  
11          (A) if—

12                 “(i) the physical facilities at the school in-  
13                 volved limit the school from enrolling additional  
14                 students; or

15                 “(ii) the school has increased enrollment in  
16                 the school (as described in subparagraph (A))  
17                 for each of the 2 preceding academic years.

18          “(4) Not later than 1 year after receiving a  
19          grant under this section, the school will formulate  
20          and implement a plan to accomplish at least 2 of the  
21          following:

22                 “(A) Establishing or significantly expand-  
23                 ing an accelerated baccalaureate degree nursing  
24                 program designed to graduate new nurses in 12  
25                 to 18 months.

1           “(B)           Establishing           cooperative  
2 intradisciplinary education among schools of  
3 nursing with a view toward shared use of tech-  
4 nological resources, including information tech-  
5 nology.

6           “(C) Establishing cooperative interdiscipli-  
7 nary training between schools of nursing and  
8 schools of allied health, medicine, dentistry, os-  
9 teopathy, optometry, podiatry, pharmacy, public  
10 health, or veterinary medicine, including train-  
11 ing for the use of the interdisciplinary team ap-  
12 proach to the delivery of health services.

13           “(D) Integrating core competencies on evi-  
14 dence-based practice, quality improvements, and  
15 patient-centered care.

16           “(E) Increasing admissions, enrollment,  
17 and retention of qualified individuals who are  
18 financially disadvantaged.

19           “(F) Increasing enrollment of minority and  
20 diverse student populations.

21           “(G) Increasing enrollment of new grad-  
22 uate baccalaureate nursing students in graduate  
23 programs that educate nurse faculty members.

24           “(H) Developing post-baccalaureate resi-  
25 dency programs to prepare nurses for practice

1 in specialty areas where nursing shortages are  
2 most severe.

3 “(I) Increasing integration of geriatric con-  
4 tent into the core curriculum.

5 “(J) Partnering with economically dis-  
6 advantaged communities to provide nursing  
7 education.

8 “(K) Expanding the ability of nurse man-  
9 aged health centers to provide clinical education  
10 training sites to nursing students.

11 “(5) The school will submit an annual report to  
12 the Secretary that includes updated information on  
13 the school with respect to student enrollment, stu-  
14 dent retention, graduation rates, passage rates on  
15 the National Council Licensure Examination for  
16 Registered Nurses, the number of graduates em-  
17 ployed as nursing faculty or nursing care providers  
18 within 12 months of graduation, and the number of  
19 students who are accepted into graduate programs  
20 for further nursing education.

21 “(6) The school will allow the Secretary to  
22 make on-site inspections, and will comply with the  
23 Secretary’s requests for information, to determine  
24 the extent to which the school is complying with the  
25 requirements of this section.

1       “(f) REPORTS TO CONGRESS.—The Secretary shall  
2 evaluate the results of grants under this section and sub-  
3 mit to Congress—

4               “(1) not later than 18 months after the date of  
5 the enactment of this section, an interim report on  
6 such results; and

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

9       “(g) APPLICATION.—An eligible school of nursing  
10 seeking a grant under this section shall submit an applica-  
11 tion to the Secretary at such time, in such manner, and  
12 containing such information and assurances as the Sec-  
13 retary may require.

14       “(h) AUTHORIZATION OF APPROPRIATIONS.—In ad-  
15 dition to the amounts in the Domestic Nursing Enhance-  
16 ment Account, established under section 833, there are  
17 authorized to be appropriated such sums as may be nec-  
18 essary to carry out this section.

19       **“SEC. 833. DOMESTIC NURSING ENHANCEMENT ACCOUNT.**

20       “(a) ESTABLISHMENT.—There is established in the  
21 general fund of the Treasury a separate account which  
22 shall be known as the ‘Domestic Nursing Enhancement  
23 Account.’ Notwithstanding any other provision of law,  
24 there shall be deposited as offsetting receipts into the ac-  
25 count all fees collected under section 106(f) of the Amer-

1 ican Competitiveness in the Twenty-first Century Act of  
2 2000 (Public Law 106–313; 8 U.S.C. 1153 note). Nothing  
3 in this subsection shall prohibit the depositing of other  
4 moneys into the account established under this section.

5 “(b) USE OF FUNDS.—Amounts collected under sec-  
6 tion 106(f) of the American Competitiveness in the Twen-  
7 ty-first Century Act of 2000, and deposited into the ac-  
8 count established under subsection (a) shall be used by  
9 the Secretary of Health and Human Services to carry out  
10 section 832. Such amounts shall be available for obligation  
11 only to the extent, and in the amount, provided in advance  
12 in appropriations Acts. Such amounts are authorized to  
13 remain available until expended.”.

14 (c) GLOBAL HEALTH CARE COOPERATION.—

15 (1) IN GENERAL.—Title III of the Immigration  
16 and Nationality Act (8 U.S.C. 1401 et seq.) is  
17 amended by inserting after section 317 the fol-  
18 lowing:

19 **“SEC. 317A. TEMPORARY ABSENCE OF ALIENS PROVIDING**  
20 **HEALTH CARE IN DEVELOPING COUNTRIES.**

21 “(a) IN GENERAL.—Notwithstanding any other pro-  
22 vision of this Act, the Secretary of Homeland Security  
23 shall allow an eligible alien and the spouse or child of such  
24 alien to reside in a candidate country during the period  
25 that the eligible alien is working as a physician or other

1 health care worker in a candidate country. During such  
2 period the eligible alien and such spouse or child shall be  
3 considered—

4 “(1) to be physically present and residing in the  
5 United States for purposes of naturalization under  
6 section 316(a); and

7 “(2) to meet the continuous residency require-  
8 ments under section 316(b).

9 “(b) DEFINITIONS.—In this section:

10 “(1) CANDIDATE COUNTRY.—The term ‘can-  
11 didate country’ means a country that the Secretary  
12 of State determines to be—

13 “(A) eligible for assistance from the Inter-  
14 national Development Association, in which the  
15 per capita income of the country is equal to or  
16 less than the historical ceiling of the Inter-  
17 national Development Association for the appli-  
18 cable fiscal year, as defined by the International  
19 Bank for Reconstruction and Development;

20 “(B) classified as a lower middle income  
21 country in the then most recent edition of the  
22 World Development Report for Reconstruction  
23 and Development published by the International  
24 Bank for Reconstruction and Development and  
25 having an income greater than the historical

1 ceiling for International Development Associa-  
2 tion eligibility for the applicable fiscal year; or

3 “(C) qualified to be a candidate country  
4 due to special circumstances, including natural  
5 disasters or public health emergencies.

6 “(2) ELIGIBLE ALIEN.—The term ‘eligible  
7 alien’ means an alien who—

8 “(A) has been lawfully admitted to the  
9 United States for permanent residence; and

10 “(B) is a physician or other healthcare  
11 worker.

12 “(c) CONSULTATION.—The Secretary of Homeland  
13 Security shall consult with the Secretary of State in car-  
14 rying out this section.

15 “(d) PUBLICATION.—The Secretary of State shall  
16 publish—

17 “(1) not later than 180 days after the date of  
18 the enactment of this section, a list of candidate  
19 countries;

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

23 “(3) an amendment to the list required by  
24 paragraph (1) at the time any country qualifies as

1 a candidate country due to special circumstances  
2 under subsection (b)(1)(C).”.

3 (2) RULEMAKING.—

4 (A) REQUIREMENT.—Not later than 180  
5 days after the date of the enactment of this  
6 Act, the Secretary of Homeland Security shall  
7 promulgate regulations to carry out the amend-  
8 ments made by this subsection.

9 (B) CONTENT.—The regulations promul-  
10 gated pursuant to paragraph (1) shall—

11 (i) permit an eligible alien (as defined  
12 in section 317A of the Immigration and  
13 Nationality Act, as added by paragraph  
14 (1)) and the spouse or child of the eligible  
15 alien to reside in a foreign country to work  
16 as a physician or other healthcare worker  
17 as described in subsection (a) of such sec-  
18 tion 317A for not less than a 12-month pe-  
19 riod and not more than a 24-month period,  
20 and shall permit the Secretary to extend  
21 such period for an additional period not to  
22 exceed 12 months, if the Secretary deter-  
23 mines that such country has a continuing  
24 need for such a physician or other  
25 healthcare worker;

1 (ii) provide for the issuance of docu-  
2 ments by the Secretary to such eligible  
3 alien, and such spouse or child, if appro-  
4 priate, to demonstrate that such eligible  
5 alien, and such spouse or child, if appro-  
6 priate, is authorized to reside in such  
7 country under such section 317A; and

8 (iii) provide for an expedited process  
9 through which the Secretary shall review  
10 applications for such an eligible alien to re-  
11 side in a foreign country pursuant to sub-  
12 section (a) of such section 317A if the Sec-  
13 retary of State determines a country is a  
14 candidate country pursuant to subsection  
15 (b)(1)(C) of such section 317A.

16 (3) TECHNICAL AND CONFORMING AMEND-  
17 MENTS.—

18 (A) DEFINITION.—Section  
19 101(a)(13)(C)(ii) of the Immigration and Na-  
20 tionality Act (8 U.S.C. 1101(a)(13)(C)(ii)) is  
21 amended by adding at the end the following:  
22 “except in the case of an eligible alien, or the  
23 spouse or child of such alien, who is authorized  
24 to be absent from the United States under sec-  
25 tion 317A.”.

1 (B) DOCUMENTARY REQUIREMENTS.—Sec-  
2 tion 211(b) of such Act (8 U.S.C. 1181(b)) is  
3 amended by inserting “, including an eligible  
4 alien authorized to reside in a foreign country  
5 under section 317A and the spouse or child of  
6 such eligible alien, if appropriate,” after  
7 “1101(a)(27)(A),”.

8 (C) INELIGIBLE ALIENS.—Section  
9 212(a)(7)(A)(i)(I) of such Act (8 U.S.C.  
10 1182(a)(7)(A)(i)(I)) is amended by inserting  
11 “other than an eligible alien authorized to re-  
12 side in a foreign country under section 317A  
13 and the spouse or child of such eligible alien, if  
14 appropriate,” after “Act,”.

15 (D) CLERICAL AMENDMENT.—The table of  
16 contents of such Act is amended by inserting  
17 after the item relating to section 317 the fol-  
18 lowing:

“Sec. 317A. Temporary absence of aliens providing health care in developing  
countries.”.

19 (4) AUTHORIZATION OF APPROPRIATIONS.—  
20 There are authorized to be appropriated to U.S.  
21 Citizenship and Immigration Services such sums as  
22 may be necessary to carry out this subsection and  
23 the amendments made by this subsection.

24 (d) ATTESTATION BY HEALTH CARE WORKERS.—

1           (1)   ATTESTATION    REQUIREMENT.—Section  
2           212(a)(5) of the Immigration and Nationality Act (8  
3           U.S.C. 1182(a)(5)) is amended by adding at the end  
4           the following:

5                   “(E)   HEALTH    CARE    WORKERS    WITH  
6           OTHER OBLIGATIONS.—

7                   “(i)   IN   GENERAL.—An alien who  
8                   seeks to enter the United States for the  
9                   purpose of performing labor as a physician  
10                  or other health care worker is inadmissible  
11                  unless the alien submits to the Secretary of  
12                  Homeland Security or the Secretary of  
13                  State, as appropriate, an attestation that  
14                  the alien is not seeking to enter the United  
15                  States for such purpose during any period  
16                  in which the alien has an outstanding obli-  
17                  gation to the government of the alien’s  
18                  country of origin or the alien’s country of  
19                  residence.

20                  “(ii)   OBLIGATION   DEFINED.—In this  
21                  subparagraph, the term ‘obligation’ means  
22                  an obligation incurred as part of a valid,  
23                  voluntary individual agreement in which  
24                  the alien received financial assistance to  
25                  defray the costs of education or training to

1           qualify as a physician or other health care  
2           worker in consideration for a commitment  
3           to work as a physician or other health care  
4           worker in the alien's country of origin or  
5           the alien's country of residence.

6           “(iii) WAIVER.—The Secretary of  
7           Homeland Security may waive a finding of  
8           inadmissibility under clause (i) if the Sec-  
9           retary determines that—

10                   “(I) the obligation was incurred  
11                   by coercion or other improper means;

12                   “(II) the alien and the govern-  
13                   ment of the country to which the alien  
14                   has an outstanding obligation have  
15                   reached a valid, voluntary agreement,  
16                   pursuant to which the alien's obliga-  
17                   tion has been deemed satisfied, or the  
18                   alien has shown to the satisfaction of  
19                   the Secretary that the alien has been  
20                   unable to reach such an agreement  
21                   because of coercion or other improper  
22                   means; or

23                   “(III) the obligation should not  
24                   be enforced due to other extraordinary  
25                   circumstances, including undue hard-

1 ship that would be suffered by the  
2 alien in the absence of a waiver.”.

3 (2) EFFECTIVE DATE; APPLICATION.—

4 (A) EFFECTIVE DATE.—The amendment  
5 made by paragraph (1) shall take effect on the  
6 date that is 180 days after the date of the en-  
7 actment of this Act.

8 (B) APPLICATION BY THE SECRETARY.—

9 Not later than the effective date described in  
10 subparagraph (A), the Secretary of Homeland  
11 Security shall begin to carry out subparagraph  
12 (E) of section 212(a)(5) of the Immigration  
13 and Nationality Act, as added by paragraph  
14 (1), including the requirement for the attesta-  
15 tion and the granting of a waiver described in  
16 clause (iii) of such subparagraph (E), regard-  
17 less of whether regulations to implement such  
18 subparagraph have been promulgated.

19 SEC. 10007. NURSE TRAINING AND RETENTION  
20 DEMONSTRATION GRANTS. (a) FINDINGS.—Congress  
21 makes the following findings:

22 (1) America’s healthcare system depends on an  
23 adequate supply of trained nurses to deliver quality  
24 patient care.

1           (2) Over the next 15 years, this shortage is ex-  
2           pected to grow significantly. The Health Resources  
3           and Services Administration has projected that by  
4           2020, there will be a shortage of nurses in every  
5           State and that overall only 64 percent of the de-  
6           mand for nurses will be satisfied, with a shortage of  
7           1,016,900 nurses nationally.

8           (3) To avert such a shortage, today's network  
9           of healthcare workers should have access to edu-  
10          cation and support from their employers to partici-  
11          pate in educational and training opportunities.

12          (4) With the appropriate education and sup-  
13          port, incumbent healthcare workers and incumbent  
14          bedside nurses are untapped sources which can meet  
15          these needs and address the nursing shortage and  
16          provide quality care as the American population  
17          ages.

18          (b) PURPOSES OF GRANT PROGRAM.—It is the pur-  
19          pose of this section to authorize grants to—

20               (1) address the projected shortage of nurses by  
21               funding comprehensive programs to create a career  
22               ladder to nursing (including Certified Nurse Assist-  
23               ants, Licensed Practical Nurses, Licensed Vocational  
24               Nurses, and Registered Nurses) for incumbent ancil-  
25               lary healthcare workers;

1           (2) increase the capacity for educating nurses  
2           by increasing both nurse faculty and clinical oppor-  
3           tunities through collaborative programs between  
4           staff nurse organizations, healthcare providers, and  
5           accredited schools of nursing; and

6           (3) provide training programs through edu-  
7           cation and training organizations jointly adminis-  
8           tered by healthcare providers and healthcare labor  
9           organizations or other organizations representing  
10          staff nurses and frontline healthcare workers, work-  
11          ing in collaboration with accredited schools of nurs-  
12          ing and academic institutions.

13          (c) GRANTS.—Not later than 6 months after the date  
14 of enactment of this Act, the Secretary of Labor (referred  
15 to in this section as the “Secretary”) shall establish a  
16 partnership grant program to award grants to eligible en-  
17 tities to carry out comprehensive programs to provide edu-  
18 cation to nurses and create a pipeline to nursing for in-  
19 cumbent ancillary healthcare workers who wish to advance  
20 their careers, and to otherwise carry out the purposes of  
21 this section.

22          (d) ELIGIBLE ENTITIES.—To be eligible to receive a  
23 grant under this section an entity shall—

24           (1) be—

1 (A) a healthcare entity that is jointly ad-  
2 ministered by a healthcare employer and a labor  
3 union representing the healthcare employees of  
4 the employer and that carries out activities  
5 using labor management training funds as pro-  
6 vided for under section 302 of the Labor-Man-  
7 agement Relations Act, 1947 (18 U.S.C.  
8 186(c)(6));

9 (B) an entity that operates a training pro-  
10 gram that is jointly administered by—

11 (i) one or more healthcare providers  
12 or facilities, or a trade association of  
13 healthcare providers; and

14 (ii) one or more organizations which  
15 represent the interests of direct care  
16 healthcare workers or staff nurses and in  
17 which the direct care healthcare workers or  
18 staff nurses have direct input as to the  
19 leadership of the organization; or

20 (C) a State training partnership program  
21 that consists of non-profit organizations that  
22 include equal participation from industry, in-  
23 cluding public or private employers, and labor  
24 organizations including joint labor-management  
25 training programs, and which may include rep-

1           representatives from local governments, worker in-  
2           vestment agency one-stop career centers, com-  
3           munity based organizations, community col-  
4           leges, and accredited schools of nursing; and

5           (2) submit to the Secretary an application at  
6           such time, in such manner, and containing such in-  
7           formation as the Secretary may require.

8           (e) ADDITIONAL REQUIREMENTS FOR HEALTHCARE  
9           EMPLOYER DESCRIBED IN SUBSECTION (d).—To be eligi-  
10          ble for a grant under this section, a healthcare employer  
11          described in subsection (d) shall demonstrate—

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

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

17           (3) support for programs funded under this sec-  
18           tion through 1 or more of the following:

19           (A) The provision of paid leave time and  
20           continued health coverage to incumbent  
21           healthcare workers to allow their participation  
22           in nursing career ladder programs, including  
23           Certified Nurse Assistants, Licensed Practical  
24           Nurses, Licensed Vocational Nurses, and Reg-  
25           istered Nurses.

1           (B) Contributions to a joint labor-manage-  
2           ment or other jointly administered training  
3           fund which administers the program involved.

4           (C) The provision of paid release time, in-  
5           centive compensation, or continued health cov-  
6           erage to staff nurses who desire to work full- or  
7           part-time in a faculty position.

8           (D) The provision of paid release time for  
9           staff nurses to enable them to obtain a bachelor  
10          of science in nursing degree, other advanced  
11          nursing degrees, specialty training, or certifi-  
12          cation program.

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

15       (f) OTHER REQUIREMENTS.—

16           (1) MATCHING REQUIREMENT.—

17           (A) IN GENERAL.—The Secretary may not  
18           make a grant under this section unless the ap-  
19           plicant involved agrees, with respect to the costs  
20           to be incurred by the applicant in carrying out  
21           the program under the grant, to make available  
22           non-Federal contributions (in cash or in kind  
23           under subparagraph (B)) toward such costs in  
24           an amount equal to not less than \$1 for each  
25           \$1 of Federal funds provided in the grant. Such

1 contributions may be made directly or through  
2 donations from public or private entities, or  
3 may be provided through the cash equivalent of  
4 paid release time provided to incumbent worker  
5 students.

6 (B) DETERMINATION OF AMOUNT OF NON-  
7 FEDERAL CONTRIBUTION.—Non-Federal con-  
8 tributions required in subparagraph (A) may be  
9 in cash or in kind (including paid release time),  
10 fairly evaluated, including equipment or services  
11 (and excluding indirect or overhead costs).

12 (C) SUPPLEMENT, NOT SUPPLANT.—  
13 Funds made available under this section shall  
14 supplement, and not supplant, resources dedi-  
15 cated by an entity, or other Federal, State, or  
16 local funds available to carry out activities de-  
17 scribed in this section.

18 (2) REQUIRED COLLABORATION.—Entities car-  
19 rying out or overseeing programs carried out with  
20 assistance provided under this section shall dem-  
21 onstrate collaboration with accredited schools of  
22 nursing which may include community colleges and  
23 other academic institutions providing associate,  
24 bachelor's, or advanced nursing degree programs or  
25 specialty training or certification programs.

1 (g) ACTIVITIES.—Amounts awarded to an entity  
2 under a grant under this section shall be used for the fol-  
3 lowing:

4 (1) To carry out programs that provide edu-  
5 cation and training to establish nursing career lad-  
6 ders to educate incumbent healthcare workers to be-  
7 come nurses (including Certified Nurse Assistants,  
8 Licensed Practical Nurses, Licensed Vocational  
9 Nurses, and Registered Nurses). Such programs  
10 shall include one or more of the following:

11 (A) Preparing incumbent workers to return  
12 to the classroom through English as a second  
13 language education, GED education, precollege  
14 counseling, college preparation classes, and sup-  
15 port with entry level college classes that are a  
16 prerequisite to nursing.

17 (B) Providing tuition assistance with pref-  
18 erence for dedicated cohort classes in commu-  
19 nity colleges, universities, accredited schools of  
20 nursing with supportive services including tu-  
21 toring and counseling.

22 (C) Providing assistance in preparing for  
23 and meeting all nursing licensure tests and re-  
24 quirements.

1           (D) Carrying out orientation and  
2           mentorship programs that assist newly grad-  
3           uated nurses in adjusting to working at the  
4           bedside to ensure their retention post gradua-  
5           tion, and ongoing programs to support nurse  
6           retention.

7           (E) Providing stipends for release time and  
8           continued healthcare coverage to enable incum-  
9           bent healthcare workers to participate in these  
10          programs.

11          (2) To carry out programs that assist nurses in  
12          obtaining advanced degrees and completing specialty  
13          training or certification programs and to establish  
14          incentives for nurses to assume nurse faculty posi-  
15          tions on a part-time or full-time basis. Such pro-  
16          grams shall include one or more of the following:

17               (A) Increasing the pool of nurses with ad-  
18               vanced degrees who are interested in teaching  
19               by funding programs that enable incumbent  
20               nurses to return to school.

21               (B) Establishing incentives for advanced  
22               degree bedside nurses who wish to teach in  
23               nursing programs so they can obtain a leave  
24               from their bedside position to assume a full- or

1 part-time position as adjunct or full time fac-  
2 ulty without the loss of salary or benefits.

3 (C) Collaboration with accredited schools  
4 of nursing which may include community col-  
5 leges and other academic institutions providing  
6 associate, bachelor's, or advanced nursing de-  
7 gree programs, or specialty training or certifi-  
8 cation programs, for nurses to carry out innova-  
9 tive nursing programs which meet the needs of  
10 bedside nursing and healthcare providers.

11 (h) PREFERENCE.—In awarding grants under this  
12 section the Secretary shall give preference to programs  
13 that—

14 (1) provide for improving nurse retention;

15 (2) provide for improving the diversity of the  
16 new nurse graduates to reflect changes in the demo-  
17 graphics of the patient population;

18 (3) provide for improving the quality of nursing  
19 education to improve patient care and safety;

20 (4) have demonstrated success in upgrading in-  
21 cumbent healthcare workers to become nurses or  
22 which have established effective programs or pilots  
23 to increase nurse faculty; or

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

1 (i) EVALUATION.—

2 (1) PROGRAM EVALUATIONS.—An entity that  
3 receives a grant under this section shall annually  
4 evaluate, and submit to the Secretary a report on,  
5 the activities carried out under the grant and the  
6 outcomes of such activities. Such outcomes may in-  
7 clude—

8 (A) an increased number of incumbent  
9 workers entering an accredited school of nurs-  
10 ing and in the pipeline for nursing programs;

11 (B) an increasing number of graduating  
12 nurses and improved nurse graduation and li-  
13 censure rates;

14 (C) improved nurse retention;

15 (D) an increase in the number of staff  
16 nurses at the healthcare facility involved;

17 (E) an increase in the number of nurses  
18 with advanced degrees in nursing;

19 (F) an increase in the number of nurse  
20 faculty;

21 (G) improved measures of patient quality  
22 as determined by the Secretary; and

23 (H) an increase in the diversity of new  
24 nurse graduates relative to the patient popu-  
25 lation.



