

110TH CONGRESS
2D SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

Mr. BIDEN (for himself and Mr. LUGAR) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The people of Pakistan and the United
9 States have a long history of friendship and comity,

1 and the vital interests of both nations are well-
2 served by strengthening and deepening this friend-
3 ship.

4 (2) In February 2008, the people of Pakistan
5 elected a civilian government, reversing months of
6 political tension and intrigue, as well as mounting
7 popular concern over governance and their own
8 democratic reform and political development.

9 (3) A democratic, moderate, modernizing Paki-
10 stan would represent the wishes of that country's
11 populace, and serve as a model to other countries
12 around the world.

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

16 (5) The struggle against al Qaeda, the Taliban,
17 and affiliated terrorist groups has led to the deaths
18 of several thousand Pakistani civilians and members
19 of the security forces of Pakistan over the past 6
20 years.

21 (6) Since the terrorist attacks of September 11,
22 2001, more al Qaeda terrorist suspects have been
23 apprehended in Pakistan than in any other country,
24 including Khalid Sheikh Muhammad, Ramzi bin al-
25 Shibh, and Abu Faraj al-Libi.

1 (7) Despite the sacrifices and cooperation of the
2 security forces of Pakistan, the top leadership of al
3 Qaeda, as well as the leadership and rank-and-file of
4 affiliated terrorist groups, are believed to use Paki-
5 stan’s Federally Administered Tribal Areas (FATA)
6 as a haven and a base from which to organize ter-
7 rorist actions in Pakistan and with global reach.

8 (8) According to a Government Accountability
9 Office Report, (GAO–08–622), “since 2003, the ad-
10 ministration’s national security strategies and Con-
11 gress have recognized that a comprehensive plan
12 that includes all elements of national power— diplo-
13 matic, military, intelligence, development assistance,
14 economic, and law enforcement support— was need-
15 ed to address the terrorist threat emanating from
16 the FATA” and that such a strategy was also man-
17 dated by section 7102(b)(3) of the Intelligence Re-
18 form and Terrorism Prevention Act of 2004 (Public
19 Law 108–458; 22 U.S.C. 2656f note) and section
20 2042(b)(2) of the Implementing the Recommenda-
21 tions of the 9/11 Commission Act of 2007 (Public
22 Law 110–53; 22 U.S.C. 2375 note).

23 (9) According to United States military sources
24 and unclassified intelligence reports, including the
25 July 2007 National Intelligence Estimate entitled,

1 “The Terrorist Threat to the U.S. Homeland”, the
2 Taliban, al Qaeda, and their Pakistani affiliates con-
3 tinue to use territory in Pakistan as a haven, re-
4 cruiting location, and rear base for violent actions in
5 both Afghanistan and Pakistan, as well as attacks
6 globally, and pose a threat to the United States
7 homeland.

8 (10) The toll of terrorist attacks, including sui-
9 cide bombs, on the people of Pakistan include thou-
10 sands of citizens killed and wounded across the
11 country, over 1,400 military and police forces killed
12 (including 700 since July 2007), and dozens of trib-
13 al, provincial, and national officials targeted and
14 killed, as well as the brazen assassination of former
15 prime minister Benazir Bhutto while campaigning in
16 Rawalpindi on December 27, 2007, and several at-
17 tempts on the life of President Pervaiz Musharraf,
18 and the rate of such attacks have grown consider-
19 ably over the past 2 years.

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

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

24 (B) solidifying democracy and the rule of
25 law in Pakistan;

1 (C) promoting the economic development
2 of Pakistan, both through the building of infra-
3 structure and the facilitation of increased trade;

4 (D) promoting the social and material well-
5 being of Pakistani citizens, particularly through
6 development of such basic services as public
7 education, access to potable water, and medical
8 treatment; and

9 (E) safeguarding the peace and security of
10 South Asia, including by facilitating peaceful
11 relations between Pakistan and its neighbors.

12 (12) According to consistent opinion research,
13 including that of the Pew Global Attitudes Survey
14 (December 28, 2007) and the International Repub-
15 lican Institute (January 29, 2008), many people in
16 Pakistan have historically viewed the relationship be-
17 tween the United States and Pakistan as a trans-
18 actional one, characterized by a heavy emphasis on
19 security issues with little attention to other matters
20 of great interest to citizens of Pakistan.

21 (13) The election of a civilian government in
22 Pakistan in February 2008 provides an opportunity,
23 after nearly a decade of military-dominated rule, to
24 place relations between Pakistan and the United
25 States on a new and more stable foundation.

1 (14) Both the Government of Pakistan and the
2 United States Government should seek to enhance
3 the bilateral relationship through additional multi-
4 faceted engagement in order to strengthen the foun-
5 dation for a consistent and reliable long-term part-
6 nership between the two countries.

7 **SEC. 3. DEFINITIONS.**

8 In this Act:

9 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
10 **TEES.**—The term “appropriate congressional com-
11 mittees” means the Committees on Appropriations
12 and Foreign Relations of the Senate and the Com-
13 mittees on Appropriations and Foreign Affairs of
14 the House of Representatives.

15 (2) **COUNTERINSURGENCY.**—The term
16 “counterinsurgency” means efforts to defeat orga-
17 nized movements that seek to overthrow the duly
18 constituted Governments of Pakistan and Afghani-
19 stan through the use of subversion and armed con-
20 flict.

21 (3) **COUNTERTERRORISM.**—The term
22 “counterterrorism” means efforts to combat al
23 Qaeda and other foreign terrorist organizations that
24 are designated by the Secretary of State in accord-
25 ance with section 219 of the Immigration and Na-

1 tionality Act (8 U.S.C. 1189), or other individuals
2 and entities engaged in terrorist activity or support
3 for such activity.

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

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

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

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

16 (A) grant assistance to carry out section
17 23 of the Arms Export Control Act (22 U.S.C.
18 2763);

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

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

1 (D) any equipment, supplies, and training
2 provided pursuant to section 1206 of the Na-
3 tional Defense Authorization Act for Fiscal
4 Year 2006 (Public Law 109–163; 119 Stat.
5 3456); and

6 (E) any equipment, supplies, and training
7 provided pursuant to section 1206 of the Na-
8 tional Defense Authorization Act for Fiscal
9 Year 2008 (Public Law 110–181; 122 Stat.
10 368).

11 (8) SECURITY FORCES OF PAKISTAN.—The
12 term “security forces of Pakistan” means the mili-
13 tary, paramilitary, and intelligence services of the
14 Government of Pakistan, including the armed forces,
15 Inter-Services Intelligence Directorate, Intelligence
16 Bureau, police forces, Frontier Corps, and Frontier
17 Constabulary.

18 **SEC. 4. STATEMENT OF POLICY.**

19 It is the policy of the United States—

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

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

24 (3) to further the sustainable economic develop-
25 ment of Pakistan and the improvement of the living

1 conditions of its citizens by expanding United States
2 bilateral engagement with the Government of Paki-
3 stan, especially in areas of direct interest and impor-
4 tance to the daily lives of the people of Pakistan;

5 (4) to work with Pakistan and the countries
6 bordering Pakistan to facilitate peace in the region
7 and harmonious relations between the countries of
8 the region;

9 (5) to work with the Government of Pakistan to
10 prevent any Pakistani territory from being used as
11 a base or conduit for terrorist attacks in Pakistan,
12 Afghanistan, or elsewhere in the world;

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

16 (7) to work with the Government of Pakistan to
17 help bring peace, stability, and development to all
18 regions of Pakistan, especially those in the Pakistan-
19 Afghanistan border areas, including support for an
20 effective counterinsurgency strategy; and

21 (8) to expand people-to-people engagement be-
22 tween the United States and Pakistan, through in-
23 creased educational, technical, and cultural ex-
24 changes and other methods.

1 **SEC. 5. AUTHORIZATION OF FUNDS.**

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

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

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

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

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

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

11 (b) SENSE OF CONGRESS ON ECONOMIC SUPPORT
12 FUNDS.—It is the sense of Congress that, subject to an
13 improving political and economic climate, there should be
14 authorized to be appropriated up to \$1,500,000,000 per
15 year for fiscal years 2014 through 2018 for the purpose
16 of providing assistance to Pakistan under the Foreign As-
17 sistance Act of 1961.

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

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

5 (1) just and democratic governance, including—

6 (A) political pluralism, equality, and the
7 rule of law;

8 (B) respect for human and civil rights;

9 (C) independent, efficient, and effective ju-
10 dicial systems;

11 (D) transparency and accountability of all
12 branches of government and judicial pro-
13 ceedings; and

14 (E) anticorruption efforts among police,
15 civil servants, elected officials, and all levels of
16 government administration, including the mili-
17 tary;

18 (2) economic freedom, including—

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

21 (B) market forces in the economy; and

22 (C) worker rights, including the right to
23 form labor unions and legally enforce provisions
24 safeguarding the rights of workers and local
25 community stakeholders; and

1 (3) investments in people, particularly women
2 and children, including—

3 (A) broad-based public primary and sec-
4 ondary education and vocational training for
5 both boys and girls;

6 (B) the construction of roads, irrigation
7 channels, wells, and other physical infrastruc-
8 ture;

9 (C) agricultural development to ensure
10 food staples in times of severe shortage;

11 (D) quality public health, including med-
12 ical clinics with well trained staff serving rural
13 and urban communities; and

14 (E) public-private partnerships in higher
15 education to ensure a breadth and consistency
16 of Pakistani graduates to help strengthen the
17 foundation for improved governance and eco-
18 nomic vitality.

19 (e) PREFERENCE FOR BUILDING LOCAL CAPAC-
20 ITY.—The President is encouraged, as appropriate, to uti-
21 lize Pakistani firms and community and local nongovern-
22 mental organizations in Pakistan to provide assistance
23 under this section.

24 (f) AUTHORITY TO USE FUNDS FOR OPERATIONAL
25 AND AUDIT EXPENSES.—Up to 7 percent of the funds ap-

1 appropriated for a fiscal year pursuant to the authorization
2 of appropriations under this section—

3 (1) may be used for administrative expenses of
4 Federal departments and agencies in connection
5 with the provision of assistance authorized by this
6 section; or

7 (2) may be made available to the Inspector
8 General of the United States Agency for Inter-
9 national Development to provide audits and program
10 reviews of projects funded pursuant to this section.

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

16 (h) NOTIFICATION REQUIREMENTS.—

17 (1) NOTICE OF ASSISTANCE FOR BUDGET SUP-
18 PORT.—The President shall notify Congress not
19 later than 15 days before providing any assistance
20 under this section as budgetary support to the Gov-
21 ernment of Pakistan or any element of such Govern-
22 ment.

23 (2) ANNUAL REPORT.—The President shall
24 submit to the appropriate congressional committees
25 a report on assistance provided under this section

1 during the most recent fiscal year. The report shall
2 describe—

3 (A) all expenditures under this section, by
4 region;

5 (B) the intended purpose for such assist-
6 ance, the strategy or plan with which it is
7 aligned, and a timeline for completion associ-
8 ated with such strategy or plan;

9 (C) a list of persons or entities who have
10 received funds in excess of \$25,000 to conduct
11 projects under this section during the period
12 covered by the report, and an assessment of the
13 effectiveness of the project or projects con-
14 ducted by each such person or entity;

15 (D) any shortfall in United States finan-
16 cial, physical, technical, or human resources
17 that hinder effective use and monitoring of such
18 funds;

19 (E) any negative impact, including the ab-
20 sorptive capacity of the region for which the re-
21 sources are intended, of United States bilateral
22 or multilateral assistance and recommendations
23 for modification of funding, if any; and

24 (F) the amount of funds appropriated pur-
25 suant to the authorization of appropriations

1 under this section that were used during the re-
2 porting period for administrative expenses or
3 for audits and program reviews pursuant to the
4 authority under subsection (f).

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

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

12 (a) LIMITATION ON CERTAIN MILITARY ASSIST-
13 ANCE.—Beginning in fiscal year 2010, no grant assistance
14 to carry out section 23 of the Arms Export Control Act
15 (22 U.S.C. 2763) and no assistance under chapter 2 of
16 part II of the Foreign Assistance Act of 1961 (22 U.S.C.
17 2311 et seq.) may be provided to Pakistan in a fiscal year
18 until the Secretary of State makes the certification re-
19 quired under subsection (c).

20 (b) LIMITATION ON ARMS TRANSFERS.—Beginning
21 in fiscal year 2012, no letter of offer to sell major defense
22 equipment to Pakistan may be issued pursuant to the
23 Arms Export Control Act (22 U.S.C. 2751 et seq.) and
24 no license to export major defense equipment to Pakistan
25 may be issued pursuant to such Act in a fiscal year until

1 the Secretary of State makes the certification required
2 under subsection (c).

3 (c) CERTIFICATION.—The certification required by
4 this subsection is a certification to the appropriate con-
5 gressional committees by the Secretary of State, after con-
6 sultation with the Secretary of Defense and the Director
7 of National Intelligence, that the security forces of Paki-
8 stan—

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

12 (2) are making concerted efforts to prevent the
13 Taliban from using the territory of Pakistan as a
14 sanctuary from which to launch attacks within Af-
15 ghanistan; and

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

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

22 (e) PRIOR NOTICE OF WAIVER.—A waiver pursuant
23 to subsection (d) may not be exercised until 15 days after
24 the Secretary of State provides to the appropriate congres-
25 sional committees written notice of the intent to issue such

1 waiver and the reasons therefor. The notice may be sub-
2 mitted in classified or unclassified form as necessary.

3 **SEC. 7. SENSE OF CONGRESS ON COALITION SUPPORT**
4 **FUNDS.**

5 It is the sense of Congress that—

6 (1) Coalition Support Funds are critical compo-
7 nents of the global fight against terrorism and the
8 primary support for military operations of the Gov-
9 ernment of Pakistan to destroy the terrorist threat
10 and close the terrorist safe haven, known or sus-
11 pected, in the FATA, the NWFP, and other regions
12 of Pakistan;

13 (2) despite the broad discretion Congress grant-
14 ed the Secretary of Defense in terms of managing
15 Coalition Support Funds, the Pakistan reimburse-
16 ment claims process for Coalition Support Funds re-
17 quires increased oversight and accountability, con-
18 sistent with the conclusions of the June 2008 report
19 of the United States Government Accountability Of-
20 fice (GAO-08-806); and

21 (3) in order to ensure that this significant
22 United States effort in support of countering ter-
23 rorism in Pakistan effectively ensures the intended
24 use of Coalition Support Funds, and to avoid redun-
25 dancy in other security assistance programs, such as

1 Foreign Military Financing and Foreign Military
2 Sales, more specific guidance should be generated,
3 and accountability delineated, for officials associated
4 with oversight of this program within the United
5 States Embassy in Pakistan, the United States Cen-
6 tral Command, the Department of Defense, the De-
7 partment of State, and the Office of Management
8 and Budget.

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

10 (a) DEVELOPMENT OF COMPREHENSIVE STRAT-
11 EGY.—The Secretary of State, in consultation with the
12 Secretary of Defense, the Director of National Intel-
13 ligence, and such other government officials as may be ap-
14 propriate, shall develop a comprehensive, cross-border
15 strategy for working with the Government of Pakistan, the
16 Government of Afghanistan, NATO, and other like-mind-
17 ed allies to best implement effective counterterrorism and
18 counterinsurgency measures in and near the border areas
19 of Pakistan and Afghanistan, especially in known or sus-
20 pected safe havens such as Pakistan's FATA, the NWFP,
21 parts of Balochistan, and other critical areas in the south
22 and east border areas of Afghanistan.

23 (b) REPORT.—Not later than June 1, 2009, the Sec-
24 retary of State shall submit to the appropriate congres-
25 sional committees a detailed description of a comprehen-

1 sive strategy for counterterrorism and counterinsurgency
2 in the FATA, as well as proposed timelines and budgets
3 for implementing the strategy.

4 **SEC. 9. SENSE OF CONGRESS.**

5 It is the sense of Congress that the United States
6 should—

7 (1) recognize the bold political steps the Paki-
8 stan electorate has taken during a time of height-
9 ened sensitivity and tension in 2007 and 2008 to
10 elect a new civilian government;

11 (2) seize this strategic opportunity in the inter-
12 ests of Pakistan as well as in the national security
13 interests of the United States to expand its engage-
14 ment with the Government and people of Pakistan
15 in areas of particular interest and importance to the
16 people of Pakistan; and

17 (3) continue to build a responsible and recip-
18 rocal security relationship taking into account the
19 national security interests of the United States as
20 well as regional and national dynamics in Pakistan
21 to further strengthen and enable the position of
22 Pakistan as a major non-NATO ally.