

Amendments Act of 2008. The bill was placed on the Senate calendar (under general orders/pursuant to Rule XVI).

V. APPLICATION OF THE LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1, the Congressional Accountability Act (CAA), requires a description of the application of this bill to the legislative branch. S. 3604 does not amend any act that applies to the legislative branch.

VI. REGULATORY IMPACT STATEMENT

The managers have determined that the bill may result in some additional paperwork, time, and costs to the Equal Employment Opportunity Commission, which would be entrusted with implementation and enforcement of the act. It is difficult to estimate the volume of additional paperwork necessity by the bill, but the committee does not believe it will be significant. Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee has determined that the bill will not have a significant regulatory impact.

VII. SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title. This Act may be cited as the "ADA Amendments Act of 2008."

Sec. 2. Findings and Purposes. Acknowledges Congressional intent of the Americans with Disabilities Act of 1990 (ADA) to "provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities" and to provide broad coverage, and that the U.S. Supreme Court subsequently erroneously narrowed the definition of disability in a series of cases. The purposes of the Act are to reinstate a broad scope of protection to be available under the ADA, to reject several Supreme Court decisions, and to re-establish original Congressional intent related to the definition of disability.

Sec. 3. Codified Findings. Amends one finding in the ADA to acknowledge that many people with physical or mental impairments have been subjected to discrimination, and strikes one finding related to describing the population of individuals with disabilities as "a discrete and insular minority."

Sec. 4. Disability Defined and Rules of Construction. Amends the definition of "disability" and provides rules of construction for applying the definition. The term "disability" is defined to mean, with respect to an individual, a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or being regarded as having such an impairment.; provides an illustrative list of "major life activities" including major bodily functions; and defines "regarded as having such an impairment" as protecting individuals who have been subject to an action prohibited under the ADA because of an actual or perceived impairment, whether or not the impairment is perceived to limit a major life activity. Requires the definition of disability to be construed broadly and consistent with the findings and purposes. Provides rules of construction regarding the definition of disability, requiring that impairments need only limit one major life activity; clarifying an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active; and prohibiting the consideration of the ameliorative effects of mitigating measures such as medication, learned behavioral modifications, or auxiliary aids or services, in determining whether an impairment is substantially limiting, while excluding ordinary eyeglasses and contact lenses.

Sec. 5. Discrimination on the Basis of Disability. Prohibits discrimination under Title

I of the ADA "on the basis of disability" rather than "against a qualified individual with a disability because of the disability of such individual." Clarifies that covered entities that use qualification standards based on uncorrected vision must show that such a requirement is job-related and consistent with business necessity.

Sec. 6. Rules of Construction. Provides that nothing in this Act alters the standards for determining eligibility for benefits under State worker's compensation laws or other disability benefit programs. Prohibits reverse discrimination claims by disallowing claims based on the lack of disability. Provides that nothing in this Act alters the provision in Title III that a modification of policies or practices is not required if it fundamentally alters the nature of the service being provided. Establishes that entities covered under all three titles of the ADA are not required to provide reasonable accommodations or modifications to an individual who meets the definition of disability only as a person "regarded as having such an impairment." Authorizes the EEOC, Attorney General, and the Secretary of Transportation to promulgate regulations implementing the definition of disability and rules of construction related to the definition.

Sec. 7. Conforming Amendments. Amends Section 7 of the Rehabilitation Act of 1973 to cross-reference the definition of disability under the ADA.

Sec. 8. Effective date. Amendments made by the Act take effect January 1, 2009.

September 11, 2008.

TOM HARKIN,
U.S. Senator.
ORRIN HATCH,
U.S. Senator.

ENDNOTES

1. 42 U.S.C. §12101.

2. This rule of construction is consistent with earlier judicial precedents and parallels the rule of construction in the Religious Land Use and Institutionalized Persons Act, which Congress unanimously passed in 2002.

3. *Toyota Motor Manufacturing, Kentucky, Inc. v. Williams*, 534 U.S. 184 (2002).

4. Id. at 197.

5. Id. at 198. See also, 29 CFR 1630.2.

6. *Sutton v. United Airlines*, 527 U.S. 471 (1999).

7. *Murphy v. United Parcel Service, Inc.*, 527 U.S. 516 (1999); *Albertson's, Inc. v. Kirkingburg*, 527 U.S. 555 (1999).

8. Ordinary eyeglasses and contact lenses are excluded from this prohibition.

9. 29 U.S.C. §794. Sections 501 and 503 of the Rehabilitation Act also use the same definition of disability and prohibit disability discrimination by federal employees and federal contractors, respectively. 29 U.S.C. §§791, 793. Note that the definition of disability is found in Section 705(20)(B).

10. This bill does not change any current statutory requirement that an individual must be qualified to perform the essential functions of the job.

11. 42 U.S.C. 12101.

12. The bill's purposes include rejecting the holding in *Toyota* that in order for an impairment to be substantially limiting, the impairment must "prevent or severely restrict the individual from doing activities that are of central importance to most people's lives."

13. 28 CFR §36.104; 29 CFR §1630.2(h) (1)-(2); 34 CFR §104.3(j)(2)(i).

14. We have chosen not to adopt the House's term "materially restricts" or the House Committees' use of a range or spectrum of severity to define "materially restricts" because we are concerned both by the lack of clarity in the terms "material" "moderate" and "severe" and because we be-

lieve that such terms encourage the courts to engage in an inappropriate level of scrutiny as to the severity of an impairment when determining whether an individual has a disability.

15. Under the first prong, of course, a plaintiff must still provide evidence that his or her impairment is substantially limiting.

16. See *Holt v. Grand Lake Mental Health Center, Inc.*, 443 F. 3d 762 (10th Cir. 2006) holding an individual with cerebral palsy who could not independently perform certain specified manual tasks was not substantially limited in her ability to perform a "broad range" of manual tasks.

17. We expect that this illustrative list of major life activities (including major bodily functions), in combination with the rejection of both the "demanding standard" in *Toyota* and the consideration of mitigating measure in the *Sutton* trilogy will make it easier for individuals to show that they are eligible for the ADA's protections under the first prong of the definition of disability. While it is impossible to predict the type of cases that will be brought following passage of this bill, we would expect that the bill will make it easier for individuals in cases like the following to qualify for the protections of the ADA—*Littleton v. Wal-Mart Stores, Inc.*, 231 Fed. Appx. 874 (11th Cir. 2007) (individual with intellectual disability); *Furnish v. SVI Syst., Inc.*, 270 F. 3d 445, 450 (7th Cir. 2001) (person with cirrhosis of the liver caused by Hepatitis B); and *Pimental v. Dartmouth-Hitchcock Clinic*, 236 F. Supp. 2d 177 (D.N.H. 2002) (individual with advanced breast cancer).

18. 480 U.S. 273(1987).

19. The following courts have held that the ADA requires that reasonable accommodations be provided to individuals who are able to establish coverage under the ADA under the "regarded as" prong of the definition of disability: *Kelly v. Metallics West, Inc.*, 410 F.3d 670 (10th Cir. 2005) (plaintiff needed oxygen device to breathe); *D'Angelo v. ConAgra Foods, Inc.*, 422 F.3d 1220 (11th Cir. 2005) (plaintiff had vertigo resulting in spinning and vomiting); *Williams v. Philadelphia Housing Auth. Police Dept.*, 380 F.3d 751 (3d Cir. 2004) (plaintiff had major depressive disorder); *Lorinz v. Turner Const. Co.*, 2004 WL 1196699, * 8 n.7 (E.D.N.Y. May 25, 2004) (plaintiff had depressive disorder and anxiety); *Miller v. Heritage Prod., Inc.*, 2004 WL 1087370, * 10 (S.D. Ind. Apr. 21, 2004) (plaintiff had back injury and could not lift more than 20 pounds, bend or twist); *Jacques v. DiMarzio, Inc.*, 200 F. Supp.2d 151 (E.D.N.Y. 2002) (plaintiff had bipolar disorder); *Jewell v. Reid's Confectionary Co.*, 172 F. Supp.2d 212 (D. Me. 2001) (plaintiff had heart attack); *Katz v. City Metal Co., Inc.*, 87 F.3d 26, 33 (1st Cir. 1996) (plaintiff had heart attack). Some courts have held that reasonable accommodations need not be provided to an employee who is merely regarded or perceived as disabled. See *Kaplan v. City of N. Las Vegas*, 323 F.3d 1226, 1231-33 (9th Cir. 2003); *Weber v. Strippit, Inc.*, 186 F.3d 907, 916-17 (8th Cir. 1999); *Workman v. Frito-Lay, Inc.*, 165 F.3d 460, 467 (6th Cir. 1999); *Newberry v. E. Texas State Univ.*, 161 F.3d 276, 280 (5th Cir. 1998). Cf. *Brady v. Wal-Mart Stores Inc. et al*, No. 06-5486-cv (2nd Cir. July 2, 2008) (accommodations available under either first or third prong).

20. 527 U.S. at 479 (1999).

21. For example, an individual with diabetes might demonstrate coverage by showing either that he was substantially limited in endocrine functioning or that his diabetes substantially limited a major life activity, such as eating or sleeping.

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with

me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering over 1,000, are heartbreaking and touching. To respect their efforts, I am submitting every e-mail sent to me through energy_prices@crapo.senate.gov to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Thank you for requesting my input on the energy crisis. I found out several years ago that energy prices were going to skyrocket due to the imminent peaking of oil production (and natural gas) worldwide. I read every book on the subject of the coming energy crisis such as "Twilight in the Desert", "The Party's Over", "The Long Emergency", "Big Coal", "Powerdown", and probably 15 others. I read most every relevant news story as collected by www.energybulletin.net.

I have heard the pleas from Al Gore, Bill Clinton, Matt Simmons, Rep. (R) Roscoe Bartlett (Maryland) and many other prominent Americans who want our citizens to know the truth about Peak Oil Theory, and the implications of a global peak and inevitable decline in production.

I have since sold my car, my house, and am living with massive inflation, food and gasoline shortages, and likely economic collapse in mind. I am growing a large garden this year and riding my bicycle(s) most everywhere. I have met with local leaders, including Boise Mayor Dave Bieter, to talk about real solutions, and have written letters to the editor of the Idaho Statesman monthly.

We need to grow most all of our own food locally, produce and distribute most goods locally, and keep people employed doing things to create and expand our new localized economy. We need to accept that our population will decline due to lowering food production. We need to know that the era of high consumption, personal automobiles, travel, and technology is coming to a close. People must understand that in 100 years our planet will sustain perhaps 1 billion people, living primarily an agrarian existence, without technology.

If the people remain in the dark about our true future, there are unspeakable dangers. Dictatorship in America, nuclear confrontations over resources, and rioting are likely. Please help to inform the American public now.

BOB, Boise.

Thank you for the email telling us of your position on the energy crunch (and thank you for opposing that climate change legislation). I am all in favor of developing alternative energy sources, such as biodiesel, and in expanding our refinery capacity for conventional petroleum fuels. I heartily support tapping the petroleum resources we have here in the United States and, from all that I have heard, we have (or can soon develop) the technology to do it with less harm to the environment. I understand that Congressman Chris Cannon of Utah is making efforts

to develop oil shale fields that are located under Utah, Colorado and Wyoming. I support this and hope that you will uphold these efforts if corresponding legislation reaches the Senate. I also support conservation incentives that would encourage companies to come up with more environmentally friendly methods of developing these resources.

I support expanding our use of nuclear energy. My understanding is that the popular fears of nuclear power plants are largely based on myth. And most of the "waste" produced is either relatively benign, or can be recycled or reused. If federal regulations were changed so that all radioactive byproducts did not have to be shipped to a nuclear waste repository, we would have plenty of space in places like Yucca Mountain. Apparently, only 2% of byproducts from nuclear reactors really need to be taken to such facilities. As an aside, France produces 80% of its electricity from nuclear power. What in the world is holding us back from building more nuclear power plants?

Please do whatever you can to bring about changes at the federal level so that the private sector can go to work developing technologies and resources to solve our growing energy problems. I agree that we are "too dependent on petroleum," and that we are "far too dependent on foreign sources of that petroleum." We must move forward in availing ourselves of the resources we have. We should do so in an environmentally conscientious manner, yes, but we must move forward.

Sincerely,

BLAKE, Hamer.

A few years ago I needed to re-do a roof. I considered solar panels and energy conservation devices. It added a lot of costs, but I thought that it would be worthwhile if I could get a bit of a tax break. I contacted the state, power company, gas company, and checked the Internet for federal tax breaks. There weren't any for individuals. The lady with the state simply stated that "they do not do things that way." I felt this was short-sighted at the time, and, as things are now, my opinion seems to be correct. I do not foresee a turn around any time soon. Why does not the legislature encourage the gas and power companies to offer incentives? Why does not the state or federal legislatures offer tax incentives to individuals instead of to major corporations?

The engine that drove America to its current prominence is the creativeness and industry of the every day American. Release it! Encourage people to come up with their own energy saving ideas and devices. At least, stop blocking individual efforts that are attempted by easing legal restrictions. America's and Idaho's energy companies and legislatures have created barriers to individual ingenuity. It is not in their respective interests to encourage such action. I feel that this is short-sighted at this time, but I expect more of the same. Until the economic pain of the individual is shared by the existing energy corporation executives and current legislators, little more than lip service can be expected. Some have said that gas at \$5/gallon would wake us all up and cause change to occur. The fallacy in this logic is that the \$5/gallon is increased profits and corporations seldom discourage profit. There is economic pain all right, but the pain is not felt by the folks who initiate changes.

Here is a radical proposal: Remove the existing corporate tax benefits related to oil and some other energy corporations. (Wind-fall profits are possible, but I am not recommending them.) Offer the same amount as tax benefits to individuals. These can be in the form of worthwhile individual energy grants and can be emergency economic tax

credits in places like the Midwest. You are probably aware that there have been significant floods in the Midwest. You are probably aware that this is expected to affect the cost of food and fuel adversely. This will result in the same type of economic pain as the current "Gas Crisis". The fund might be an "Economic Crisis" fund. I have little doubt that there are many other economic crises that will occur.

The engine of America is in need of maintenance. This maintenance is needed at the individual level. The Economic Crisis fund can provide for maintenance, and some improvements. Once the engine of America stops running, the entire world is going to see some real economic pain. Some of the most short sighted world leaders will transfer this economic pain into other kinds of pain. Somebody else will be blamed and punitive action started.

Here is another consideration. Some say that the cost of gas is based on speculation. If this is true, a disincentive can easily be added to dampen speculative zeal in the form of capital gains taxes. There are long and short term capital gains. Let us add another class that would penalize speculation. Extend long term capital gains taxes to five years. This will allow reasoned investments. Keep the tax rate on these low. Speculators are usually short term. Raise the tax rate on the speculation profits. No doubt there will be howls, but then there will be an adjustment, and the overall effect could be that market manipulation is discouraged while prudent or targeted investment is encouraged. The tax code would also need to be amended.

KELLY.

We would like to express our concern over Congress's reluctance to address the energy problem. Rather than blaming oil companies for making an 8½% profit, you should all be blaming yourselves for your lack of foresight. The law of supply and demand is well understood out here, but Washington does not seem to grasp it. Drill . . . off-shore, ANWR, coal-to-oil, nuclear, solar, wind, shale oil. In short, go to work on the problem instead talking it to death. Immediately lift your restrictions on drilling here.

Our propane went from \$124 every three weeks last winter, to \$227 this spring. We are broke. Between my physical inability to work, (but not disabled enough to draw disability), my husband's \$10 an hr. job, our mortgage, utilities, transportation costs, property taxes, auto licenses, home owner's insurance, medical insurance, and auto insurance, we now find ourselves with no grocery money. Our daughter, tax rebates, unexpected refund of medical overpayment, (God), have fed us the first half of this year.

Tell your colleagues that there are real people out here that do not make hundreds of thousands of dollars a year, (of course, if we could set our own wages, we would), but try to live on a gross of \$20,000 a year.

We, our friends, relatives and neighbors are beginning to suffer. This is the first time in many years that we have had to worry about our next week's groceries. We are agonizing over whether to drop our medical coverage, but that is so frightening.

Thank you for listening.

Sincerely,

CHARLES and WANDA.

Thank you for your support in trying to keep our gas prices down. Thank you also for trying to utilize energy sources here in America.

We are disability retired and taking care of my 90-year-old father. Of course you are aware that gas prices are driving the cost of everything else up. It is difficult to make our

fixed income stretch through the entire month. We only drive when absolutely necessary for doctor's appointments and shopping. If we forget something at the store, then we go without until the next time. It cost \$51.00 to fill our tank in our mid-size car last time. The thought of gas reaching \$6.00 or even \$8.00 per gallon makes us wonder how we will possibly pay for it. We do not have bus service in Hayden, and being disabled are unable to walk to the nearest store which is a couple of miles away.

We plead with Congress to help us and the many that are in the same situation! Hopefully, Republicans will not sustain too great a loss in the upcoming election so they can push for a sensible domestic energy policy.

We are wondering if you support Newt Gingrich's "Drill Here. Drill Now. Pay Less." proposal? Hopefully so.

Thank you.

Respectfully,

MIKE and MARY.

This Congress has a terrible record when it comes to sensible solutions to our energy problem!

This [current] Congress has failed miserably to address the real problems we the public face and instead wasted time investigating horse racing and drugs in sports or anything else [that provides easy publicity]. Many [conservatives] are also failing miserably and voting for (the wrong) politics over principle in misguided attempts to hang on to their jobs: earmarks come to mind here as well as voting with the [majority] and for special interest groups that are against solving our energy problems using our own abundant resources. We need to get rid of these people FAST so that somebody that really represents us can get on with solving the problem!

As I see it, with all major potential sources of domestic oil now legally "off limits" to exploration; with refineries effectively prevented from increasing their capacities; with nuclear plants unable to expand and increase because they are prevented from safely storing their waste; with our monstrous quantities of coal, clean or otherwise, on the verge of being banned; with heavily-subsidized corn-based ethanol now a major reason for the world-wide food crisis, Congress needs to call a "time out" and take a good look at what they're doing to our country! It is not something that can continue or "our way of life" as we know it will end! And if it does, the party identified as making it happen will find itself at an end too! At some point, I expect to see our country experience the kind of public protests becoming common elsewhere around the world, and with elections coming up shortly, the means will be readily at hand to make whatever changes we need. I vote, and I am really looking at the candidates voting records closely this time.

FRED, *Priest River.*

I am grateful for this opportunity to explain to you how the high gas prices are affecting me. I am a 23-year-old senior in college from the Burley area. I came home this summer and got a job as a pizza deliverer, therefore the amount I make depends a lot on the price of gasoline, because as the cost of gasoline rises that is less money that is available for me to set aside for college. Since I came back to Burley in the end of April, I have seen the price of gas at the cheapest gas station in town jump from \$3.369 to \$3.959 tonight as I drove home from work. In nearly two months on the job, my fuel expenses have almost exceeded \$400.

I pay for college myself, with the assistance of some academic scholarships. I do not qualify for government aid. I did not qualify

for the recent tax rebate. And I have made a goal to earn my undergraduate degree without taking out a loan because, in this unstable economy, I do not want to have that added albatross when I go to buy a house and start my family. I am not asking for a hand-out, or a loan or even a tax cut (though, admittedly, that would be nice). I am a hard worker, and I can make it through college without incurring one cent's worth of debt if the government would make a sensible energy policy that kept prices at the pump reasonable. What I am afraid is that most members of Congress, and especially the leadership, do not understand that rising gas prices affect lower income families and individuals like I the most. Do they not see that the entire \$150 billion tax rebate will likely be used to cover the increased price of energy? The net economic benefit of the tax rebate is being pumped into our cars and burned. Fiery rhetoric about record profits in the oil industry may get some people angry, but does it really do any good? What assurance do I get that the price of gas will drop if Congress taxes the oil industry more? What's more, what assurance can you give me that the price will not increase as the oil companies pass the tax on to me? Some also suggest that we raise the miles per gallon standards on cars. That sounds good to me, but I cannot afford to buy a brand new Prius, much less a brand new anything. Some also say we should increase nuclear, hydro-electric, solar and wind power, all sentiments that I agree with. But, forgive my ignorance if I fail to see how building nuclear plants, dams, windmills or solar panels increase the oil supply. None of those options helps me at the pump. I still end up paying the high price of gas.

My feelings on how to solve the current energy crisis can be summed up with the title of Speaker Newt Gingrich nationwide petition drive: "Drill Here. Drill Now. Pay Less." which more than 800,000 Americans have signed to date. My plea, Senator CRAPO, is that you stand up for the people like me and demand we open our coasts for drilling, open the ANWR for drilling, open the Rocky Mountains for drilling. I know we can do it in an environmentally friendly way. We are the United States, the greatest, most powerful nation on earth. Nothing is impossible for us. My grandparents and great-grandparents lived through a Depression, which dwarfed the current economic crisis. I want to have faith in my country that our generation will meet this issue head on. I have heard people say we cannot drill ourselves out of the crisis. But I fail to see how doing nothing to increase domestic oil production solves the problem either. If a college student who struggled through Economics 101 understands that the bulk of this issue is a supply problem, what does that say about the lack of economic prowess on display by a majority of Congress? Perhaps an equitable solution for both sides would be to write a bill that opens the ANWR and at the same time releases half of the strategic oil reserve. That would have the immediate effect of lowering gas prices and a longer term effect of increased supply. Can both sides agree to something like that?

JARED.

AFRICA

Mr. FEINGOLD. Mr. President, I am very concerned that one of Africa's most gruesome and longstanding conflicts is once again falling off the radar screen of this Congress and this administration. For 22 years, northern Uganda has been caught in a war between

the Ugandan military and rebels of the Lord's Resistance Army, leading at its height to the displacement of 1.8 million people, nearly 90 percent of the region's population. Just a few years ago, an estimated 1,000 people were dying each week in squalid camps, and northern Uganda was called the world's worst neglected humanitarian crisis. The rebels for their part are reviled across the world for their horrific brutality. Over the course of the conflict, they have reportedly abducted more than 66,000 children, forcing them into sexual slavery or child soldiering.

In March of 2007, the Senate passed a resolution I introduced recognizing this crisis and calling on the administration to support the ongoing peace negotiations. These negotiations—which began in 2006 in Juba, Southern Sudan, and were mediated by the Government of Southern Sudan—brought a cessation of hostilities and offered the best opportunity in a decade to bring an end to the war. At the urging of this Congress and thousands of concerned Americans, the State Department finally appointed a senior diplomat to coordinate U.S. support for this peace process. That diplomat, Tim Shortley, played a crucial role over the last year in moving the negotiations forward. In March 2008, the parties reached an agreement that was one of the most comprehensive of its kind, including provisions for truth-telling, disarmament and demobilization, reconciliation and accountability.

Unfortunately, the leader of the Lord's Resistance Army—LRA—Joseph Kony, has refused to sign the agreement. Far more disturbing, his rebels now operating almost entirely outside Uganda and instead in the border region between Central African Republic, Congo, and Southern Sudan have resumed attacks and abducting children. They are easily exploiting the region's porous borders and ungoverned spaces a problem which, in my view, constitutes a threat to international peace and security. Yet rather than intensify efforts to engage and pressure Kony to accept the agreement, the United States and others in the international community have downscaled our efforts. Instead of mustering the tremendous resources at our disposal to press the rebels to accept a political solution, we have turned our attention elsewhere again.

As a result, there is now a haphazard military operation underway to contain the rebels by the Congolese military a force not known for its success in defeating armed groups or for respecting civilians caught in the cross-fire. Yes, the U.N. Peacekeeping Force in Congo, known by its French acronym MONUC, is supporting the Congolese military, but MONUC is already overwhelmed by its inability to fully address its primary task: controlling the persistent violence in the eastern Congo. I visited that region last summer and it is a region desperately in need of greater security. Without expanded resources and capacity focused