

***In the House of Representatives, U. S.,***

*December 8, 2010.*

*Resolved*, That the House agree to the amendment of the Senate to the bill (H.R. 3082) entitled “An Act making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.”, with the following

**HOUSE AMENDMENT TO SENATE AMENDMENT:**

In lieu of the matter proposed to be inserted by the amendment of the Senate, insert the following:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Full-Year Continuing*  
3 *Appropriations Act, 2011”.*

4 ***SEC. 2. TABLE OF CONTENTS.***

5 *The table of contents for this Act is as follows:*

*DIVISION A—FULL-YEAR CONTINUING APPROPRIATIONS*

*Title I—General Provisions*

*Title II—Adjustments in Funding and Other Provisions*

*DIVISION B—SURFACE TRANSPORTATION EXTENSION*

*DIVISION C—AIRPORT AND AIRWAY EXTENSION*

*DIVISION D—FOOD SAFETY*

6 ***SEC. 3. REFERENCES.***

7 *Except as expressly provided otherwise, any reference*  
8 *to “this Act” contained in any division of this Act shall*

1 *be treated as referring only to the provisions of that divi-*  
2 *sion.*

3           ***DIVISION A—FULL-YEAR***  
4 ***CONTINUING APPROPRIATIONS***

5           *The following sums are hereby appropriated, out of*  
6 *any money in the Treasury not otherwise appropriated,*  
7 *and out of applicable corporate or other revenues, receipts,*  
8 *and funds, for the several departments, agencies, corpora-*  
9 *tions, and other organizational units of Government for fis-*  
10 *cal year 2011, and for other purposes, namely:*

11                   ***TITLE I—GENERAL PROVISIONS***

12           *SEC. 1101. (a) Such amounts as may be necessary, at*  
13 *the level specified in subsection (c) and under the authority*  
14 *and conditions provided in applicable appropriations Acts*  
15 *for fiscal year 2010, for projects or activities (including the*  
16 *costs of direct loans and loan guarantees) that are not other-*  
17 *wise specifically provided for, and for which appropria-*  
18 *tions, funds, or other authority were made available in the*  
19 *following appropriations Acts:*

20                   (1) *The Agriculture, Rural Development, Food*  
21 *and Drug Administration, and Related Agencies Ap-*  
22 *propriations Act, 2010 (Public Law 111–80).*

23                   (2) *Division A of the Department of Defense Ap-*  
24 *propriations Act, 2010 (division A of Public Law*  
25 *111–118).*

1           (3) *The Energy and Water Development and Re-*  
2 *lated Agencies Appropriations Act, 2010 (Public Law*  
3 *111–85).*

4           (4) *The Department of Homeland Security Ap-*  
5 *propriations Act, 2010 (Public Law 111–83) and sec-*  
6 *tion 601 of the Supplemental Appropriations Act,*  
7 *2010 (Public Law 111–212).*

8           (5) *The Department of the Interior, Environ-*  
9 *ment, and Related Agencies Appropriations Act, 2010*  
10 *(division A of Public Law 111–88).*

11           (6) *The Legislative Branch Appropriations Act,*  
12 *2010 (division A of Public Law 111–68).*

13           (7) *The Consolidated Appropriations Act, 2010*  
14 *(Public Law 111–117).*

15           (8) *Chapter 3 of title I of the Supplemental Ap-*  
16 *propriations Act, 2010 (Public Law 111–212), except*  
17 *for appropriations under the heading “Operation and*  
18 *Maintenance” relating to Haiti following the earth-*  
19 *quake of January 12, 2010, or the Port of Guam:*  
20 *Provided, That the amount provided for the Depart-*  
21 *ment of Defense pursuant to this paragraph shall not*  
22 *exceed \$29,387,401,000: Provided further, That the*  
23 *Secretary of Defense shall allocate such amount to*  
24 *each appropriation account, budget activity, activity*  
25 *group, and subactivity group, and to each program,*

1        *project, and activity within each appropriation ac-*  
2        *count, in the same proportions as such appropri-*  
3        *tions for fiscal year 2010.*

4        *(b) For purposes of this Act, the term “level” means*  
5        *an amount.*

6        *(c) The level referred to in subsection (a) shall be the*  
7        *amounts appropriated in the appropriations Acts referred*  
8        *to in such subsection, including transfers and obligation*  
9        *limitations, except that—*

10            *(1) such level shall not include any amount pre-*  
11            *viously designated (other than amounts in section*  
12            *1101(a)(8)) as an emergency requirement and nec-*  
13            *essary to meet emergency needs pursuant to sections*  
14            *403(a) and 423(b) of S. Con. Res. 13 (111th Con-*  
15            *gress), the concurrent resolution on the budget for fis-*  
16            *cal year 2010; and*

17            *(2) such level shall be calculated without regard*  
18            *to any rescission or cancellation of funds or contract*  
19            *authority.*

20        *SEC. 1102. Appropriations made by section 1101 shall*  
21        *be available to the extent and in the manner that would*  
22        *be provided by the pertinent appropriations Act.*

23        *SEC. 1103. Appropriations provided by this Act that,*  
24        *in the applicable appropriations Act for fiscal year 2010,*

1 *carried a multiple-year or no-year period of availability*  
2 *shall retain a comparable period of availability.*

3 *SEC. 1104. Except as otherwise expressly provided in*  
4 *this Act, the requirements, authorities, conditions, limita-*  
5 *tions, and other provisions of the appropriations Acts re-*  
6 *ferred to in section 1101(a) shall continue in effect through*  
7 *the date specified in section 1106.*

8 *SEC. 1105. No appropriation or funds made available*  
9 *or authority granted pursuant to section 1101 shall be used*  
10 *to initiate or resume any project or activity for which ap-*  
11 *propriations, funds, or other authority were specifically*  
12 *prohibited during fiscal year 2010.*

13 *SEC. 1106. Unless otherwise provided for in this Act*  
14 *or in the applicable appropriations Act, appropriations*  
15 *and funds made available and authority granted pursuant*  
16 *to this Act shall be available through September 30, 2011.*

17 *SEC. 1107. Expenditures made pursuant to the Con-*  
18 *tinuing Appropriations Act, 2011 (Public Law 111-242),*  
19 *shall be charged to the applicable appropriation, fund, or*  
20 *authorization provided by this Act.*

21 *SEC. 1108. Funds appropriated by this Act may be*  
22 *obligated and expended notwithstanding section 10 of Pub-*  
23 *lic Law 91-672 (22 U.S.C. 2412), section 15 of the State*  
24 *Department Basic Authorities Act of 1956 (22 U.S.C.*  
25 *2680), section 313 of the Foreign Relations Authorization*

1 *Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and*  
2 *section 504(a)(1) of the National Security Act of 1947 (50*  
3 *U.S.C. 414(a)(1)).*

4 *SEC. 1109. (a) With respect to any discretionary ac-*  
5 *count for which advance appropriations were provided for*  
6 *fiscal year 2011 or 2012 in an appropriations Act for fiscal*  
7 *year 2010, in addition to amounts otherwise made available*  
8 *by this Act, advance appropriations are provided in the*  
9 *same amount for fiscal year 2012 or 2013, respectively,*  
10 *with a comparable period of availability.*

11 *(b) In addition to amounts provided by subsection (a),*  
12 *an additional amount is provided for the following accounts*  
13 *in the amounts specified:*

14 *(1) “Department of Veterans Affairs, Medical*  
15 *Services”, \$2,513,985,000, which shall become avail-*  
16 *able on October 1, 2011, and shall remain available*  
17 *until September 30, 2012.*

18 *(2) “Department of Veterans Affairs, Medical*  
19 *Support and Compliance”, \$228,000,000, which shall*  
20 *become available on October 1, 2011, and shall re-*  
21 *main available until September 30, 2012.*

22 *(c) Notwithstanding subsection (a), amounts are pro-*  
23 *vided for “Department of Veterans Affairs, Medical Facili-*  
24 *ties” in the amount of \$5,426,000,000, which shall become*

1 *available on October 1, 2011, and shall remain available*  
2 *until September 30, 2012.*

3 *SEC. 1110. (a) For entitlements and other mandatory*  
4 *payments whose budget authority was provided in appro-*  
5 *priations Acts for fiscal year 2010, and for activities under*  
6 *the Food and Nutrition Act of 2008, the levels established*  
7 *by section 1101 shall be the amounts necessary to maintain*  
8 *program levels under current law.*

9 *(b) In addition to the amounts otherwise provided by*  
10 *section 1101, the following amounts shall be available for*  
11 *the following accounts for advance payments for the first*  
12 *quarter of fiscal year 2012:*

13 *(1) “Department of Labor, Employment Stand-*  
14 *ards Administration, Special Benefits for Disabled*  
15 *Coal Miners”, for benefit payments under title IV of*  
16 *the Federal Mine Safety and Health Act of 1977,*  
17 *\$41,000,000, to remain available until expended.*

18 *(2) “Department of Health and Human Services,*  
19 *Centers for Medicare and Medicaid Services, Grants*  
20 *to States for Medicaid”, for payments to States or in*  
21 *the case of section 1928 on behalf of States under title*  
22 *XIX of the Social Security Act, \$86,445,289,000, to*  
23 *remain available until expended.*

24 *(3) “Department of Health and Human Services,*  
25 *Administration for Children and Families, Payments*

1 *to States for Child Support Enforcement and Family*  
2 *Support Programs”, for payments to States or other*  
3 *non-Federal entities under titles I, IV–D, X, XI, XIV,*  
4 *and XVI of the Social Security Act and the Act of*  
5 *July 5, 1960 (24 U.S.C. ch. 9), \$1,200,000,000, to re-*  
6 *main available until expended.*

7 (4) *“Department of Health and Human Services,*  
8 *Administration for Children and Families, Payments*  
9 *to States for Foster Care and Permanency”, for pay-*  
10 *ments to States or other non-Federal entities under*  
11 *title IV–E of the Social Security Act, \$1,850,000,000.*

12 (5) *“Social Security Administration, Supple-*  
13 *mental Security Income Program”, for benefit pay-*  
14 *ments under title XVI of the Social Security Act,*  
15 *\$13,400,000,000, to remain available until expended.*

16 *SEC. 1111. The following amounts are designated as*  
17 *an emergency requirement and necessary to meet emergency*  
18 *needs pursuant to sections 403(a) and 423(b) of S. Con.*  
19 *Res. 13 (111th Congress), the concurrent resolution on the*  
20 *budget for fiscal year 2010:*

21 (1) *Amounts incorporated by reference in this*  
22 *Act that were previously designated as available for*  
23 *overseas deployments and other activities pursuant to*  
24 *such concurrent resolution.*



1           (2) *Amounts made available pursuant to para-*  
2           *graph (8) of section 1101(a) of this Act.*

3           *SEC. 1112. Any language specifying an earmark in*  
4           *an appropriations Act for fiscal year 2010, or in a com-*  
5           *mittee report or joint explanatory statement accompanying*  
6           *such an Act, shall have no legal effect with respect to funds*  
7           *appropriated by this Act. For purposes of this section, the*  
8           *term “earmark” means a congressional earmark or congres-*  
9           *sionally directed spending item, as defined in clause 9(e)*  
10          *of rule XXI of the Rules of the House of Representatives*  
11          *and paragraph 5(a) of rule XLIV of the Standing Rules*  
12          *of the Senate.*

13          *SEC. 1113. (a) Notwithstanding section 1101, user fees*  
14          *for “Securities and Exchange Commission, Salaries and*  
15          *Expenses” shall be available for obligation in the amount*  
16          *of \$1,250,000,000: Provided, That the authority provided*  
17          *in this subsection shall be deemed a regular appropriation*  
18          *for purposes of section 6(b) of the Securities Act of 1933*  
19          *(15 U.S.C. 77f(b)) and sections 13(e), 14(g), and 31 of the*  
20          *Securities Exchange Act of 1934 (15 U.S.C. 78m(e), 78n(g),*  
21          *and 78ee).*

22          *(b) Notwithstanding section 1101, the Federal Commu-*  
23          *nications Commission is authorized to assess and collect*  
24          *pursuant to section 9 of title I of the Communications Act*  
25          *of 1934 offsetting collections during fiscal year 2011 of*

1 \$350,634,000, and such amounts shall be available for obli-  
2 gation until expended, of which not less than \$8,279,115  
3 shall be for the salaries and expenses of the Office of Inspec-  
4 tor General.

5 *SEC. 1114. (a) For the purposes of this section—*

6 *(1) the term “employee”—*

7 *(A) means an employee as defined in sec-*  
8 *tion 2105 of title 5, United States Code; and*

9 *(B) includes an individual to whom sub-*  
10 *section (b), (c), or (f) of such section 2105 per-*  
11 *tains (whether or not such individual satisfies*  
12 *subparagraph (A));*

13 *(2) the term “senior executive” means—*

14 *(A) a member of the Senior Executive Serv-*  
15 *ice under subchapter VIII of chapter 53 of title*  
16 *5, United States Code;*

17 *(B) a member of the FBI–DEA Senior Ex-*  
18 *ecutive Service under subchapter III of chapter*  
19 *31 of title 5, United States Code;*

20 *(C) a member of the Senior Foreign Service*  
21 *under chapter 4 of title I of the Foreign Service*  
22 *Act of 1980 (22 U.S.C. 3961 and following); and*

23 *(D) a member of any similar senior execu-*  
24 *tive service in an Executive agency;*

1           (3) *the term “senior-level employee” means an*  
2 *employee who holds a position in an Executive agen-*  
3 *cy and who is covered by section 5376 of title 5,*  
4 *United States Code, or any similar authority; and*

5           (4) *the term “Executive agency” has the mean-*  
6 *ing given such term by section 105 of title 5, United*  
7 *States Code.*

8           (b)(1) *Notwithstanding any other provision of law, ex-*  
9 *cept as provided in subsection (e), no statutory pay adjust-*  
10 *ment which (but for this subsection) would otherwise take*  
11 *effect during the period beginning on January 1, 2011, and*  
12 *ending on December 31, 2012, shall be made.*

13           (2) *For purposes of this subsection, the term “statutory*  
14 *pay adjustment” means—*

15           (A) *an adjustment required under section 5303,*  
16 *5304, 5304a, 5318, or 5343(a) of title 5, United*  
17 *States Code; and*

18           (B) *any similar adjustment, required by statute,*  
19 *with respect to employees in an Executive agency.*

20           (c) *Notwithstanding any other provision of law, except*  
21 *as provided in subsection (e), during the period beginning*  
22 *on January 1, 2011, and ending on December 31, 2012,*  
23 *no senior executive or senior-level employee may receive an*  
24 *increase in his or her rate of basic pay absent a change*

1 *of position that results in a substantial increase in respon-*  
2 *sibility, or a promotion.*

3 *(d) The President may issue guidance that Executive*  
4 *agencies shall apply in the implementation of this section.*

5 *(e) The Non-Foreign Area Retirement Equity Assur-*  
6 *ance Act of 2009 (5 U.S.C. 5304 note) shall be applied using*  
7 *the appropriate locality-based comparability payments es-*  
8 *tablished by the President as the applicable comparability*  
9 *payments in section 1914(2) and (3) of such Act.*

10 *SEC. 1115. (a) Amounts made available by this Act*  
11 *shall be available for transfer by the head of the agency to*  
12 *the extent necessary to avoid furloughs or reductions in*  
13 *force, or to provide funding necessary for programs and ac-*  
14 *tivities required by law: Provided, That such transfers may*  
15 *not result in the termination of programs, projects or ac-*  
16 *tivities: Provided further, That such transfers shall be sub-*  
17 *ject to the approval of the House and Senate Appropria-*  
18 *tions Committees.*

19 *(b) The authorities provided by subsection (a) of this*  
20 *section shall be in addition to any other transfer authority*  
21 *provided elsewhere in this statute.*

22 *SEC. 1116. None of the funds made available in this*  
23 *or any prior Act may be used to transfer, release, or assist*  
24 *in the transfer or release to or within the United States,*

1 *its territories, or possessions Khalid Sheikh Mohammed or*  
 2 *any other detainee who—*

3 *(1) is not a United States citizen or a member*  
 4 *of the Armed Forces of the United States; and*

5 *(2) is or was held on or after June 24, 2009, at*  
 6 *the United States Naval Station, Guantanamo Bay,*  
 7 *Cuba, by the Department of Defense.*

8 *SEC. 1117. None of the funds appropriated or other-*  
 9 *wise made available by this Act may be obligated by any*  
 10 *covered executive agency in contravention of the certifi-*  
 11 *cation requirement of section 6(b) of the Iran Sanctions Act*  
 12 *of 1996, as included in the revisions to the Federal Acquisi-*  
 13 *tion Regulation pursuant to such section.*

14 *TITLE II—ADJUSTMENTS IN FUNDING AND*  
 15 *OTHER PROVISIONS*

16 *CHAPTER 1—AGRICULTURE, RURAL DEVELOP-*  
 17 *MENT, FOOD AND DRUG ADMINISTRATION,*  
 18 *AND RELATED AGENCIES*

19 *SEC. 2101. Notwithstanding section 1101, the level for*  
 20 *each of the following accounts shall be as follows: “Agricul-*  
 21 *tural Programs, Agricultural Research Service, Buildings*  
 22 *and Facilities,” \$0; “Agricultural Programs, Agricultural*  
 23 *Marketing Service, Marketing Services”, \$126,148,000;*  
 24 *“Agricultural Programs, Grain Inspection, Packers and*  
 25 *Stockyards Administration, Limitation on Inspection and*

1 *Weighing Services Expenses*”, \$50,000,000; “*Conservation*  
2 *Programs, Natural Resources Conservation Service, Water-*  
3 *shed and Flood Prevention Operations*”, \$0; “*Rural Devel-*  
4 *opment Programs, Rural Housing Service, Rental Assist-*  
5 *ance Program*”, \$971,593,000; “*Domestic Food Programs,*  
6 *Food and Nutrition Service, Special Supplemental Nutri-*  
7 *tion Program for Women, Infants, and Children (WIC)*”,  
8 \$6,773,372,000; “*Domestic Food Programs, Food and Nu-*  
9 *trition Service, Nutrition Programs Administration*”,  
10 \$150,801,000; “*Foreign Assistance and Related Programs,*  
11 *Foreign Agricultural Service, Salaries and Expenses*”,  
12 \$187,801,000; and “*Related Agencies and Food and Drug*  
13 *Administration, Independent Agencies, Farm Credit Ad-*  
14 *ministration, Limitation on Administrative Expenses*”,  
15 \$59,400,000.

16       *SEC. 2102. Notwithstanding section 1101, the level for*  
17 *“Agricultural Programs, Agriculture Buildings and Facili-*  
18 *ties and Rental Payments” shall be \$260,051,000, of which*  
19 *\$178,470,000 shall be available for payments to the General*  
20 *Services Administration for rent; of which \$13,800,000*  
21 *shall be for payment to the Department of Homeland Secu-*  
22 *rity for building security activities; and of which*  
23 *\$67,781,000 shall be for buildings operations and mainte-*  
24 *nance expenses.*

1        *SEC. 2103. The amounts included under the heading*  
2 *“Agricultural Programs, National Institute of Food and*  
3 *Agriculture, Research and Education Activities” in Public*  
4 *Law 111–80 shall be applied to funds appropriated by this*  
5 *division as follows: by substituting “\$317,884,000” for*  
6 *“\$215,000,000”; by substituting “\$34,816,000” for*  
7 *“\$29,000,000”; by substituting “\$51,000,000” for*  
8 *“\$48,500,000”; by substituting “\$268,957,000” for*  
9 *“\$262,482,000”; by substituting “\$2,844,000” for*  
10 *“\$89,029,000”; by substituting “\$2,173,000” for*  
11 *“\$1,805,000”; by substituting “\$9,699,000” for*  
12 *“\$9,237,000”; by substituting “\$19,100,000” for*  
13 *“\$18,250,000”; by substituting “\$4,009,000” for*  
14 *“\$3,342,000”; by substituting “\$3,232,000” for*  
15 *“\$3,200,000”; and by substituting “\$11,253,000” for*  
16 *“\$45,122,000”.*

17        *SEC. 2104. The amounts included under the heading*  
18 *“Agricultural Programs, National Institute of Food and*  
19 *Agriculture, Extension Activities” in Public Law 111–80*  
20 *shall be applied to funds appropriated by this division as*  
21 *follows: by substituting “\$306,227,000” for “\$297,500,000”;*  
22 *by substituting “\$43,838,000” for “\$42,677,000”; by sub-*  
23 *stituting “\$69,131,000” for “\$68,070,000”; by substituting*  
24 *“\$3,755,000” for “\$3,045,000”; by substituting*  
25 *“\$19,886,000” for “\$19,770,000”; by substituting*

1 “\$4,377,000” for “\$4,321,000”; and by substituting  
2 “\$8,565,000” for “\$20,396,000”.

3       *SEC. 2105. The amounts included under the heading*  
4 *“Agricultural Programs, Animal and Plant Health Inspec-*  
5 *tion Services, Salaries and Expenses” in Public Law 111–*  
6 *80 shall be applied to funds appropriated by this division*  
7 *by substituting “\$45,219,000” for “\$60,243,000”.*

8       *SEC. 2106. In addition to amounts otherwise appro-*  
9 *priated or made available by this Act, \$31,875,000 is ap-*  
10 *propriated to the Secretary of Agriculture for the costs of*  
11 *loan and loan guarantees under the heading “Agricultural*  
12 *Programs, Farm Service Agency, Agricultural Credit In-*  
13 *surance Fund Program Account” to ensure that the fiscal*  
14 *year 2010 program levels for such loan and loan guarantee*  
15 *programs are maintained for fiscal year 2011. Funds ap-*  
16 *propriated by this Act to such heading for farm ownership,*  
17 *operating and conservation direct loans and guaranteed*  
18 *loans may be transferred among these programs. The Sec-*  
19 *retary of Agriculture shall notify the Committees on Appro-*  
20 *priations of the House of Representatives and Senate at*  
21 *least 15 days in advance of any transfer.*

22       *SEC. 2107. Notwithstanding section 1101, the level for*  
23 *each of the following accounts under the heading “Rural*  
24 *Development Programs” shall be as follows: “Rural Hous-*  
25 *ing Service, Rural Housing Insurance Fund Program Ac-*



1 count”, \$582,409,000; “Rural Housing Service, Farm  
2 Labor Program Account”, \$20,358,000; “Rural Housing  
3 Service, Rural Community Facilities Program Account”,  
4 \$56,579,000; “Rural Business-Cooperative Service, Rural  
5 Development Loan Fund Program Account”, \$17,879,000;  
6 “Rural Utilities Service, Rural Water and Waste Disposal  
7 Program Account”, \$579,361,000; “Rural Utilities Service,  
8 Rural Electrification and Telecommunications Loans Pro-  
9 gram Account”, \$40,659,000; and “Rural Utilities Service,  
10 Distance Learning, Telemedicine, and Broadband Pro-  
11 gram”, \$78,051,000: Provided, That these funds are appro-  
12 priated to the Secretary of Agriculture to ensure that the  
13 fiscal year 2010 program levels for such loan and loan  
14 guarantee programs are maintained for fiscal year 2011:  
15 Provided further, That the amount provided in this Act for  
16 grants and administrative expenses under these accounts  
17 shall remain unchanged from fiscal year 2010.

18       SEC. 2108. Notwithstanding section 1101, the level for  
19 “Domestic Food Programs, Food and Nutrition Service,  
20 Child Nutrition Programs” shall be \$17,319,981,000, to re-  
21 main available through September 30, 2012, for necessary  
22 expenses to carry out the Richard B. Russell National  
23 School Lunch Act (42 U.S.C. 1751 et seq.), except section  
24 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771  
25 et seq.), except sections 17 and 21; of which such sums as

1 *are made available under section 14222(b)(1) of the Food,*  
2 *Conservation, and Energy Act of 2008 (Public Law 110–*  
3 *246), as amended by this Act, shall be merged with and*  
4 *available for the same time period and purposes as provided*  
5 *herein: Provided, That of the total amount available,*  
6 *\$5,000,000 shall be available to be awarded as competitive*  
7 *grants to implement section 4405 of the Food, Conservation,*  
8 *and Energy Act of 2008 (Public Law 110–246), and may*  
9 *be awarded notwithstanding the limitations imposed by sec-*  
10 *tions 4405(b)(1)(A) and 4405(c)(1)(A): Provided further,*  
11 *That section 14222(b)(1) of the Food, Conservation, and*  
12 *Energy Act of 2008 is amended by adding at the end before*  
13 *the period, “except section 21, and the Child Nutrition Act*  
14 *of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and*  
15 *21”.*

16 *SEC. 2109. Notwithstanding section 1101, the level for*  
17 *“Domestic Food Programs, Food and Nutrition Service,*  
18 *Commodity Assistance Program”, shall be \$253,358,000, of*  
19 *which \$176,788,000 shall be for the Commodity Supple-*  
20 *mental Food Program.*

21 *SEC. 2110. Notwithstanding section 1101, the level for*  
22 *“Related Agencies and Food and Drug Administration,*  
23 *Food and Drug Administration, Salaries and Expenses”*  
24 *shall be \$3,707,611,000: Provided, That of the amount pro-*  
25 *vided under this heading, \$667,057,000 shall be derived*

1 *from prescription drug user fees authorized by section 736*  
2 *of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.*  
3 *379h), shall be credited to this account and remain avail-*  
4 *able until expended, and shall not include any fees pursu-*  
5 *ant to paragraphs (2) and (3) of section 736(a) of such Act*  
6 *(21 U.S.C. 379h(a)(2) and (a)(3)) assessed for fiscal year*  
7 *2012 but collected in fiscal year 2011; \$61,860,000 shall be*  
8 *derived from medical device user fees authorized by section*  
9 *738 of such Act (21 U.S.C. 379j), and shall be credited to*  
10 *this account and remain available until expended;*  
11 *\$19,448,000 shall be derived from animal drug user fees au-*  
12 *thorized by section 740 of such Act (21 U.S.C. 379j-12),*  
13 *and shall be credited to this account and remain available*  
14 *until expended; \$5,397,000 shall be derived from animal ge-*  
15 *neric drug user fees authorized by section 741 of such Act*  
16 *(21 U.S.C. 379j-21), and shall be credited to this account*  
17 *and shall remain available until expended; and*  
18 *\$450,000,000 shall be derived from tobacco product user fees*  
19 *authorized by section 919 of such Act (21 U.S.C. 387s) and*  
20 *shall be credited to this account and remain available until*  
21 *expended: Provided further, That in addition and notwith-*  
22 *standing any other provision under this heading, amounts*  
23 *collected for prescription drug user fees that exceed the fiscal*  
24 *year 2011 limitation are appropriated and shall be credited*  
25 *to this account and remain available until expended: Pro-*

1 *vided further, That fees derived from prescription drug,*  
2 *medical device, animal drug, animal generic drug, and to-*  
3 *bacco product assessments for fiscal year 2011 received dur-*  
4 *ing fiscal year 2011, including any such fees assessed prior*  
5 *to fiscal year 2011 but credited for fiscal year 2011, shall*  
6 *be subject to the fiscal year 2011 limitations: Provided fur-*  
7 *ther, That none of these funds shall be used to develop, estab-*  
8 *lish, or operate any program of user fees authorized by 31*  
9 *U.S.C. 9701: Provided further, That of the total amount*  
10 *appropriated under this heading: (1) \$856,383,000 shall be*  
11 *for the Center for Food Safety and Applied Nutrition and*  
12 *related field activities in the Office of Regulatory Affairs;*  
13 *(2) \$963,311,000 shall be for the Center for Drug Evalua-*  
14 *tion and Research and related field activities in the Office*  
15 *of Regulatory Affairs; (3) \$328,234,000 shall be for the Cen-*  
16 *ter for Biologics Evaluation and Research and for related*  
17 *field activities in the Office of Regulatory Affairs; (4)*  
18 *\$162,946,000 shall be for the Center for Veterinary Medicine*  
19 *and for related field activities in the Office of Regulatory*  
20 *Affairs; (5) \$362,491,000 shall be for the Center for Devices*  
21 *and Radiological Health and for related field activities in*  
22 *the Office of Regulatory Affairs; (6) \$60,975,000 shall be*  
23 *for the National Center for Toxicological Research; (7)*  
24 *\$421,463,000 shall be for the Center for Tobacco Products*  
25 *and for related field activities in the Office of Regulatory*

1 *Affairs; (8) not to exceed \$141,724,000 shall be for Rent*  
2 *and Related activities, of which \$41,951,000 is for White*  
3 *Oak Consolidation, other than the amounts paid to the Gen-*  
4 *eral Services Administration for rent; (9) not to exceed*  
5 *\$185,983,000 shall be for payments to the General Services*  
6 *Administration for rent; and (10) \$224,101,000 shall be for*  
7 *other activities, including the Office of the Commissioner*  
8 *of Food and Drugs; the Office of Foods; the Office of the*  
9 *Chief Scientist; the Office of Policy, Planning and Budget;*  
10 *the Office of International Programs; the Office of Adminis-*  
11 *tration; and central services for these offices: Provided fur-*  
12 *ther, That none of the funds made available under this*  
13 *heading shall be used to transfer funds under section 770(n)*  
14 *of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.*  
15 *379dd): Provided further, That not to exceed \$25,000 of the*  
16 *amount provided under this heading shall be for official re-*  
17 *ception and representation expenses, not otherwise provided*  
18 *for, as determined by the Commissioner: Provided further,*  
19 *That funds may be transferred from one specified activity*  
20 *to another with the prior approval of the Committees on*  
21 *Appropriations of both Houses of Congress.*

22 *SEC. 2111. Notwithstanding any other provision of*  
23 *this Act, the following set-asides included in Public Law*  
24 *111–80 for “Congressionally Designated Projects” in the*

1 *following accounts for the corresponding amounts shall not*  
2 *apply to funds appropriated by this Act:*

3           (1) *“Agricultural Programs, Agricultural Re-*  
4 *search Service, Salaries and Expenses”, \$44,138,000.*

5           (2) *“Agricultural Programs, National Institute*  
6 *of Food and Agriculture, Research and Education Ac-*  
7 *tivities”, \$120,054,000.*

8           (3) *“Agricultural Programs, National Institute*  
9 *of Food and Agriculture, Extension Activities”,*  
10 *\$11,831,000.*

11           (4) *“Agricultural Programs, Animal and Plant*  
12 *Health Inspection Service, Salaries and Expenses”,*  
13 *\$24,410,000.*

14           (5) *“Conservation Programs, Natural Resources*  
15 *Conservation Service, Conservation Operations”,*  
16 *\$37,382,000.*

17 *SEC. 2112. Notwithstanding any other provision of*  
18 *this Act, the following provisions included in Public Law*  
19 *111–80 shall not apply to funds appropriated by this Act:*

20           (1) *The first proviso under the heading “Agricul-*  
21 *tural Programs, Agriculture Buildings and Facilities*  
22 *and Rental Payments”.*

23           (2) *The second proviso under the heading “Con-*  
24 *servation Programs, Natural Resources Conservation*  
25 *Service, Conservation Operations”.*

1           (3) *The set-aside of \$2,800,000 under the heading*  
2           *“Rural Development Programs, Rural Business—Co-*  
3           *operative Service, Rural Cooperative Development*  
4           *Grants”.*

5           (4) *The second proviso under the heading “Rural*  
6           *Development Programs, Rural Utilities Service,*  
7           *Rural Water and Waste Disposal Account”.*

8           (5) *The first proviso under the heading “Domes-*  
9           *tic Food Programs, Food and Nutrition Service, Com-*  
10          *modity Assistance Program”.*

11          (6) *The first proviso under the heading “Foreign*  
12          *Assistance and Related Programs, Foreign Agricul-*  
13          *tural Service, McGovern-Dole International Food for*  
14          *Education and Child Nutrition Program Grants”.*

15          *SEC. 2113. The following sections of title VII of Public*  
16          *Law 111–80 shall be applied to funds appropriated by this*  
17          *division by substituting \$0 for the dollar amounts included*  
18          *in those sections: section 718, section 723, section 727, sec-*  
19          *tion 728, and section 738.*

20          *SEC. 2114. The following sections of title VII of Public*  
21          *Law 111–80 shall not apply for fiscal year 2011: section*  
22          *716, section 724, section 726, section 729, section 735, and*  
23          *section 748.*

24          *SEC. 2115. The following sections of title VII of Public*  
25          *Law 111–80 that authorized or required certain actions*

1 *have been performed before the date of the enactment of this*  
2 *division and need not reoccur: section 737, section 740, sec-*  
3 *tion 747, and section 749.*

4 *SEC. 2116. Appropriations to the Department of Agri-*  
5 *culture made available in fiscal year 2005 to carry out sec-*  
6 *tion 601 of the Rural Electrification Act of 1936 (7 U.S.C.*  
7 *950bb) for the cost of direct loans shall remain available*  
8 *until expended to disburse valid obligations made in fiscal*  
9 *years 2005 and 2006.*

10 *SEC. 2117. In the case of each program established or*  
11 *amended by the Food, Conservation, and Energy Act of*  
12 *2008 (Public Law 110–246), other than by title I or subtitle*  
13 *A of title III of such Act, or programs for which indefinite*  
14 *amounts were provided in that Act that is authorized or*  
15 *required to be carried out using funds of the Commodity*  
16 *Credit Corporation: (1) such funds shall be available for*  
17 *salaries and related administrative expenses, including*  
18 *technical assistance, associated with the implementation of*  
19 *the program, without regard to the limitation on the total*  
20 *amount of allotments and fund transfers contained in sec-*  
21 *tion 11 of the Commodity Credit Corporation Charter Act*  
22 *(15 U.S.C. 714i); and (2) the use of such funds for such*  
23 *purpose shall not be considered to be a fund transfer or al-*  
24 *lotment for purposes of applying the limitation on the total*



1 *amount of allotments and fund transfers contained in such*  
2 *section.*

3 *SEC. 2118. With respect to any loan or loan guarantee*  
4 *program administered by the Secretary of Agriculture that*  
5 *has a negative credit subsidy score for fiscal year 2011, the*  
6 *program level for the loan or loan guarantee program, for*  
7 *the purposes of the Federal Credit Reform Act of 1990, shall*  
8 *be the program level established pursuant to such Act for*  
9 *fiscal year 2010.*

10 *SEC. 2119. Notwithstanding section 1101, section*  
11 *102(c) of chapter 1 of title I of the Supplemental Appro-*  
12 *priations Act, 2010 (Public Law 111–212) that addresses*  
13 *guaranteed loans in the rural housing insurance fund shall*  
14 *remain in effect through the date specified in section 1106.*

15 *SEC. 2120. In paragraph (1) of section 721 of Public*  
16 *Law 111–80, strike “\$1,180,000,000” and insert*  
17 *“\$1,318,000,000”.*

18 *SEC. 2121. The following provisions of Public Law*  
19 *111–80 shall be applied to funds appropriated by this divi-*  
20 *sion by substituting “2010”, “2011” and “2012” for the*  
21 *terms “2009”, “2010”, and “2011”, respectively, in each*  
22 *instance that such terms appear:*

23 *(1) The second paragraph under the heading*  
24 *“Agricultural Programs, Animal and Plant Health*  
25 *Inspection Service, Salaries and Expenses”.*

1           (2) *The second proviso under the heading “Agricultural Programs, Food Safety and Inspection Service”.*

2  
3  
4           (3) *The first proviso in the second paragraph under the heading “Rural Development Programs, Rural Housing Service, Rural Housing Insurance Fund Program Account”.*

5  
6  
7  
8           (4) *The fifth proviso under the heading “Rural Development Programs, Rural Housing Service, Rental Assistance Program”.*

9  
10  
11           (5) *The proviso under the heading “Rural Development Programs, Rural Housing Service, Mutual and Self-Help Housing Grants”.*

12  
13  
14           (6) *The first proviso under the heading “Rural Development Programs, Rural Housing Service, Rural Housing Assistance Grants”.*

15  
16  
17           (7) *The seventh proviso under the heading “Rural Development Programs, Rural Housing Service, Rural Community Facilities Program Account”.*

18  
19  
20           (8) *The third proviso under the heading “Rural Development Programs, Rural Business—Cooperative Service, Rural Business Program Account”.*

21  
22  
23           (9) *The four availability of funds clauses under the heading “Rural Development Programs, Rural*

1       *Business—Cooperative Service, Rural Development*  
 2       *Loan Fund Program Account”.*

3             (10) *The fifth proviso under the heading “Rural*  
 4       *Development Programs, Rural Utilities Service,*  
 5       *Rural Water and Waste Disposal Program Account”.*

6             (11) *Sections 713, 717, and 746.*

7       *SEC. 2122. Notwithstanding section 1101, the level for*  
 8       *“Commodity Futures Trading Commission” shall be*  
 9       *\$261,000,000, to remain available until September 30,*  
 10       *2012.*

11       *SEC. 2123. The proviso under the heading “Com-*  
 12       *modity Futures Trading Commission” in Public Law 111-*  
 13       *80 shall not apply to funds appropriated by this Act.*

14       *CHAPTER 2—COMMERCE, JUSTICE, SCIENCE,*  
 15             *AND RELATED AGENCIES*

16       *SEC. 2201. Notwithstanding section 1101, the level for*  
 17       *each of the following accounts shall be as follows: “Depart-*  
 18       *ment of Commerce, Bureau of the Census, Periodic Censuses*  
 19       *and Programs”, \$964,315,000; “Department of Commerce,*  
 20       *National Telecommunications and Information Adminis-*  
 21       *tration, Salaries and Expenses”, \$40,649,000; “Department*  
 22       *of Commerce, National Institute of Standards and Tech-*  
 23       *nology, Construction of Research Facilities”, \$124,800,000;*  
 24       *“Department of Commerce, National Oceanic and Atmos-*  
 25       *pheric Administration, Procurement, Acquisition and Con-*

1 *struction*”, \$1,772,353,000; “*Department of Justice, Gen-*  
2 *eral Administration, Detention Trustee*”, \$1,533,863,000;  
3 “*Department of Justice, Legal Activities, Salaries and Ex-*  
4 *penses, United States Attorneys*”, \$1,944,610,000; “*Depart-*  
5 *ment of Justice, Federal Bureau of Investigation, Salaries*  
6 *and Expenses*”, \$7,703,387,000; “*Department of Justice,*  
7 *Federal Bureau of Investigation, Construction*”,  
8 \$107,310,000; “*Department of Justice, Drug Enforcement*  
9 *Administration, Salaries and Expenses*”, \$2,030,488,000;  
10 “*Department of Justice, Bureau of Alcohol, Tobacco, Fire-*  
11 *arms and Explosives, Salaries and Expenses*”,  
12 \$1,126,587,000; “*Department of Justice, Bureau of Alcohol,*  
13 *Tobacco, Firearms and Explosives, Construction*”, \$0; “*De-*  
14 *partment of Justice, Federal Prison System, Salaries and*  
15 *Expenses*”, \$6,472,726,000; and “*Department of Justice,*  
16 *Federal Prison System, Buildings and Facilities*”,  
17 \$194,155,000.

18       *SEC. 2202. Notwithstanding section 1101, the level for*  
19 *“Department of Commerce, United States Patent and*  
20 *Trademark Office, Salaries and Expenses” shall be*  
21 *\$2,262,000,000, to remain available until expended: Pro-*  
22 *vided, That the sum herein appropriated from the general*  
23 *fund shall be reduced as offsetting collections assessed and*  
24 *collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and*  
25 *376 are received during fiscal year 2011, so as to result*

1 *in a fiscal year 2011 appropriation from the general fund*  
2 *estimated at \$0: Provided further, That during fiscal year*  
3 *2011, should the total amount of offsetting fee collections,*  
4 *and the surcharge provided herein, be less than*  
5 *\$2,262,000,000, this amount shall be reduced accordingly:*  
6 *Provided further, That any amount received in excess of*  
7 *\$2,262,000,000 in fiscal year 2011, in an amount up to*  
8 *\$200,000,000, shall remain available until expended: Pro-*  
9 *vided further, That there shall be a surcharge of 15 percent,*  
10 *rounded by standard arithmetic rules, on fees charged or*  
11 *authorized by subsections (a), (b), and (d)(1) of section 41*  
12 *of title 35, United States Code, as administered under Pub-*  
13 *lic Law 108-447 and this Act, and on fees charged or au-*  
14 *thorized by section 132(b) of title 35, United States Code:*  
15 *Provided further, That the surcharge established under the*  
16 *previous proviso shall be separate from, and in addition*  
17 *to, any other surcharge that may be required pursuant to*  
18 *any provision of title 35, United States Code: Provided fur-*  
19 *ther, That the surcharge established in the previous 2 provi-*  
20 *sions shall take effect on the date that is 10 days after the*  
21 *date of enactment of this Act, and shall remain in effect*  
22 *during fiscal year 2011: Provided further, That the receipts*  
23 *collected as a result of these surcharges shall be available,*  
24 *within the amounts provided herein, to the United States*  
25 *Patent and Trademark Office without fiscal year limita-*

1 tion, for all authorized activities and operations of the Of-  
2 fice: Provided further, That within the amounts appro-  
3 priated, \$1,000,000 shall be transferred to “Department of  
4 Commerce, Departmental Management, Office of Inspector  
5 General” for activities associated with carrying out inves-  
6 tigations and audits related to the United States Patent  
7 and Trademark Office.

8       SEC. 2203. Notwithstanding section 1101, the level for  
9 “Department of Justice, Community Oriented Policing  
10 Services” shall be \$597,500,000: Provided, That the  
11 amounts included under that heading in division B of Pub-  
12 lic Law 111–117 shall be applied in the same manner to  
13 funds appropriated by this Act, except that “\$15,000,000”  
14 shall be substituted for “\$40,385,000”, “\$0” shall be sub-  
15 stituted for “\$25,385,000”, “\$1,500,000” shall be sub-  
16 stituted for “\$170,223,000”, and “\$0” shall be substituted  
17 for “\$168,723,000”.

18       SEC. 2204. Notwithstanding section 1101, the level for  
19 “Department of Justice, Office of Justice Programs, State  
20 and Local Law Enforcement Assistance” shall be  
21 \$1,349,500,000: Provided, That the amounts included under  
22 that heading in division B of Public Law 111–117 shall  
23 be applied in the same manner to funds appropriated by  
24 this Act, except that “\$0” shall be substituted for  
25 “\$185,268,000”.

1        *SEC. 2205. Notwithstanding section 1101, the level for*  
2 *“Department of Justice, Office of Justice Programs, Juve-*  
3 *nile Justice Programs” shall be \$332,500,000: Provided,*  
4 *That the amounts included under that heading in division*  
5 *B of Public Law 111–117 shall be applied in the same man-*  
6 *ner to funds appropriated by this Act, except that “\$0”*  
7 *shall be substituted for “\$91,095,000”.*

8        *SEC. 2206. Notwithstanding section 1101, the level for*  
9 *the following accounts of the National Aeronautics and*  
10 *Space Administration shall be as follows: “Science”,*  
11 *\$5,005,600,000; “Exploration”, \$3,706,000,000; “Space*  
12 *Operations”, \$5,247,900,000; “Aeronautics”,*  
13 *\$1,138,600,000; “Education”, \$180,000,000; “Cross Agency*  
14 *Support”, \$3,085,700,000; “Construction and Environ-*  
15 *mental Compliance and Remediation”, \$528,700,000, of*  
16 *which \$20,000,000 shall be derived from available unobli-*  
17 *gated balances previously appropriated for construction of*  
18 *facilities; and “Office of Inspector General”, \$37,500,000:*  
19 *Provided, That within the funds provided for “Space Oper-*  
20 *ations”, not less than \$989,100,000 shall be for Space Shut-*  
21 *tle operations, production, research, development, and sup-*  
22 *port, \$2,745,000,000 shall be for International Space Sta-*  
23 *tion operations, production, research, development, and*  
24 *support, \$688,800,000 shall be for Space and Flight Sup-*  
25 *port, and \$825,000,000 shall be for additional Space Shut-*

1 the costs, launch complex development only for activities at  
2 the Kennedy Space Center related to the civil, nondefense  
3 launch complex, use at other National Aeronautics and  
4 Space Administration flight facilities that are currently  
5 scheduled to launch cargo to the International Space Sta-  
6 tion, and development of ground operations for the heavy  
7 lift launch vehicle and the Orion multipurpose crew vehicle:  
8 Provided further, That within the funds provided for “Aero-  
9 nautics”, \$579,600,000 shall be for aeronautics research  
10 and development activities, and \$559,000,000 shall be for  
11 space technology activities proposed for “Aeronautics” and  
12 exploration technology and demonstration program activi-  
13 ties proposed for “Exploration” in the National Aero-  
14 nautics and Space Administration congressional justifica-  
15 tion that accompanied the President’s Fiscal Year 2011  
16 budget: Provided further, That within the funds provided  
17 for “Exploration”, not less than \$1,200,000,000 shall be for  
18 the Orion multipurpose crew vehicle, not less than  
19 \$250,000,000 shall be for commercial crew, not less than  
20 \$300,000,000 shall be for commercial cargo development,  
21 and not less than \$1,800,000,000 shall be for the heavy lift  
22 launch vehicle system: Provided further, That the initial lift  
23 capability for the heavy lift launch vehicle system shall be  
24 not less than 130 tons and that the upper stage and other  
25 core elements shall be simultaneously developed: Provided



1 further, That the provisos limiting the use of funds under  
2 the heading “National Aeronautics and Space Administra-  
3 tion, Exploration” in division B of Public Law 111–117  
4 shall not apply to funds appropriated by this Act: Provided  
5 further, That within the funds provided for “Construction  
6 and Environmental Compliance and Remediation”,  
7 \$40,500,000 shall be available to support science research  
8 and development activities; \$109,800,000 shall be available  
9 to support exploration research and development activities;  
10 \$15,600,000 shall be available to support space operations  
11 research and development activities; \$300,700,000 shall be  
12 available for institutional construction of facilities; and  
13 \$62,100,00 shall be available for environmental compliance  
14 and remediation: Provided further, That of funds provided  
15 under the headings “Space Operations” and “Exploration”  
16 in this Act, up to \$60,000,000 may be transferred to “De-  
17 partment of Commerce, Economic Development Adminis-  
18 tration, Economic Development Assistance Programs” to  
19 spur regional economic growth in areas impacted by Shut-  
20 tle retirement and Exploration programmatic changes: Pro-  
21 vided further, That following the retirement of the space  
22 shuttle orbiters, the National Aeronautics and Space Ad-  
23 ministration shall bear any costs that normally would be  
24 associated with surplusings the orbiters, including taking  
25 hazardous orbiter systems offline, and any shuttle recipient

1 *other than the Smithsonian Institution shall bear costs for*  
2 *transportation and for preparing the surplus orbiter for*  
3 *display: Provided further, That should the Administrator*  
4 *determine that the Smithsonian Institution is an appro-*  
5 *priate venue for an orbiter, such orbiter shall be made avail-*  
6 *able to the Smithsonian at no or nominal cost: Provided*  
7 *further, That any funds received by the National Aero-*  
8 *nautics and Space Administration as a result of the dis-*  
9 *position of any orbiter shall be available only as provided*  
10 *in subsequent appropriations Acts: Provided further, That*  
11 *funds made available for “Space Operations” in excess of*  
12 *those specified for Space Shuttle, International Space Sta-*  
13 *tion, and Space and Flight support may be transferred to*  
14 *“Construction and Environmental Compliance and Reme-*  
15 *diation” for construction activities only at National Aero-*  
16 *nautics and Space Administration owned facilities: Pro-*  
17 *vided further, That funds so transferred shall not be subject*  
18 *to section 505(a)(1) of division B of Public Law 111–117*  
19 *or to the transfer limitations for the National Aeronautics*  
20 *and Space Administration described in the Administrative*  
21 *Provisions of that Act, and shall be available until Sep-*  
22 *tember 30, 2015, only after notification of such transfers*  
23 *to the House and Senate Committees on Appropriations.*  
24       *SEC. 2207. Of the funds made available for “Depart-*  
25 *ment of Commerce, Bureau of the Census, Periodic Censuses*

1 *and Programs” in division B of Public Law 111–117,*  
2 *\$1,740,000,000 is rescinded.*

3 *SEC. 2208. Section 529 of division B of Public Law*  
4 *111–117 shall not apply to this Act.*

5 *SEC. 2209. The Departments of Commerce and Justice,*  
6 *the National Aeronautics and Space Administration, and*  
7 *the National Science Foundation are directed to submit*  
8 *spending plans, signed by the respective department or*  
9 *agency head, to the House and Senate Committees on Ap-*  
10 *propriations within 60 days of enactment of this Act.*

11 *SEC. 2210. None of the funds provided to the Depart-*  
12 *ment of Justice in this or any prior Act shall be available*  
13 *for the acquisition of any facility that is to be used wholly*  
14 *or in part for the incarceration or detention of any indi-*  
15 *vidual detained at Naval Station, Guantanamo Bay, Cuba,*  
16 *as of June 24, 2009.*

17 *SEC. 2211. Notwithstanding any other provision of*  
18 *this Act, the following set-asides included in division B of*  
19 *Public Law 111–117 for projects specified in the explana-*  
20 *tory statement accompanying that Act in the following ac-*  
21 *counts for the corresponding amounts shall not apply to*  
22 *funds appropriated by this Act: (1) “Department of Com-*  
23 *merce, International Trade Administration, Operations*  
24 *and Administration”, \$5,215,000; (2) “Department of Com-*  
25 *merce, Minority Business Development Agency, Minority*

1 *Business Development*”, \$1,100,000; (3) “*Department of*  
2 *Commerce, National Institute of Standards and Tech-*  
3 *nology, Scientific and Technical Research and Services*”,  
4 \$10,500,000; (4) “*Department of Commerce, National Insti-*  
5 *tute of Standards and Technology, Construction of Research*  
6 *Facilities*”, \$47,000,000; (5) “*Department of Commerce,*  
7 *National Oceanic and Atmospheric Administration, Oper-*  
8 *ations, Research and Facilities*”, \$99,295,000; (6) “*Depart-*  
9 *ment of Commerce, National Oceanic and Atmospheric Ad-*  
10 *ministration, Procurement, Acquisition and Construction*”,  
11 \$18,000,000; and (7) “*National Aeronautics and Space Ad-*  
12 *ministration, Cross Agency Support*”, \$63,000,000.

13       *SEC. 2212. Of the unobligated balances available to*  
14 *“Department of Justice, Legal Activities, Assets Forfeiture*  
15 *Fund*”, \$500,000,000 is hereby rescinded.

#### 16                                   *CHAPTER 3—DEFENSE*

17       *SEC. 2301. Notwithstanding section 1101 of this Act,*  
18 *the level for the “Defense Health Program” shall be*  
19 *\$32,097,203,000; of which \$30,952,369,000 shall be for oper-*  
20 *ation and maintenance, of which not to exceed 2 percent*  
21 *shall remain available until September 30, 2012, and of*  
22 *which up to \$16,212,121,000 may be available for contracts*  
23 *entered into under the TRICARE program; of which*  
24 *\$519,921,000, to remain available for obligation until Sep-*  
25 *tember 30, 2013, shall be for procurement; and of which*

1 \$624,913,000, to remain available for obligation until Sep-  
2 tember 30, 2012, shall be for research, development, test and  
3 evaluation.

4       *SEC. 2302. Amounts provided by section 1101 of this*  
5 *Act for “Defense Health Program, Department of Defense”*  
6 *shall be available: (1) for the purposes provided under sec-*  
7 *tion 1704 of the National Defense Authorization Act for Fis-*  
8 *cal Year 2010 (Public Law 111–84); (2) for transfer to the*  
9 *Joint Department of Defense-Department of Veterans Af-*  
10 *airs Medical Facility Demonstration Fund under such sec-*  
11 *tion 1704; and (3) for operations of the integrated Captain*  
12 *James A. Lovell Federal Health Care Center, consisting of*  
13 *the North Chicago Veterans Affairs Medical Center, and*  
14 *Navy Ambulatory Care Center, and supporting facilities*  
15 *designated as a combined Federal medical facility as de-*  
16 *scribed by section 706 of the Duncan Hunter National De-*  
17 *fense Authorization Act for Fiscal Year 2009 (Public Law*  
18 *110–417).*

19       *SEC. 2303. (a) The authority provided by section 1202*  
20 *of the National Defense Authorization Act for Fiscal Year*  
21 *2006 (Public Law 109–163), as amended by section 1222*  
22 *of the National Defense Authorization Act for Fiscal Year*  
23 *2010 (Public Law 111–84; 123 Stat. 2518), and the author-*  
24 *ity provided by section 1222(e) of the National Defense Au-*  
25 *thorization Act for Fiscal Year 2010 (Public Law 111–84),*

1 *shall continue in effect through the date specified in section*  
2 *1106 of this Act.*

3 *(b) Notwithstanding section 1101 of this Act, the level*  
4 *available for the “Commander’s Emergency Response Pro-*  
5 *gram” shall be \$500,000,000: Provided, That projects (in-*  
6 *cluding ancillary or related elements in connection with*  
7 *each project) executed under this authority shall not exceed*  
8 *\$20,000,000: Provided further, That the Secretary of De-*  
9 *fense shall notify the congressional defense committees in*  
10 *writing of any project with a total anticipated cost for com-*  
11 *pletion of \$5,000,000 not less than 15 days prior to obli-*  
12 *gating funds.*

13 *SEC. 2304. The authority provided by section 1234 of*  
14 *the National Defense Authorization Act for Fiscal Year*  
15 *2010 (Public Law 111–84; 123 Stat. 2532) shall continue*  
16 *in effect through the earlier of the date of enactment of the*  
17 *National Defense Authorization Act for Fiscal Year 2011*  
18 *or December 31, 2011.*

19 *SEC. 2305. The authority provided by section 1224 of*  
20 *the National Defense Authorization Act for Fiscal Year*  
21 *2010 (Public Law 111–84; 123 Stat. 2521) shall continue*  
22 *in effect through the earlier of the date of enactment of the*  
23 *National Defense Authorization Act for Fiscal Year 2011*  
24 *or December 31, 2011.*

1        *SEC. 2306. Notwithstanding any other provision of*  
2 *law, of the amount provided to the Department of Defense*  
3 *by section 1101 of this Act for “Operation and Mainte-*  
4 *nance”, up to \$75,000,000 may be obligated and expended*  
5 *for purposes of building the capacity of Yemeni Ministry*  
6 *of Interior forces to conduct counterterrorism operations,*  
7 *subject to the direction and control of the Secretary of De-*  
8 *fense, with the concurrence of the Secretary of State: Pro-*  
9 *vided, That the Secretary of Defense shall, not fewer than*  
10 *15 days prior to providing assistance under this section,*  
11 *submit to the congressional defense committees a notice set-*  
12 *ting forth the assistance to be provided, including the types*  
13 *of such assistance, the budget for such assistance, and the*  
14 *completion date for the provision of such assistance.*

15        *SEC. 2307. All funds provided by section 1101 of this*  
16 *Act for the “Joint Improvised Explosive Device Defeat*  
17 *Fund” may be used for staff and infrastructure costs.*

18        *SEC. 2308. The authority provided by section 1014 of*  
19 *the Duncan Hunter National Defense Authorization Act for*  
20 *Fiscal Year 2009 (Public Law 110–417), shall continue in*  
21 *effect through the earlier of the date of enactment of the Na-*  
22 *tional Defense Authorization Act for Fiscal Year 2011 or*  
23 *December 31, 2011.*

24        *SEC. 2309. Section 8905a(d)(4)(B) of title 5, United*  
25 *States Code, is amended—*

1           (1) in clause (i), by striking “October 1, 2010”  
2           and inserting “December 31, 2011”; and

3           (2) in clause (ii)—

4                   (A) by striking “February 1, 2011” and in-  
5                   serting “February 1, 2012”; and

6                   (B) by striking “October 1, 2010” and in-  
7                   serting “December 31, 2011”.

8           SEC. 2310. There is hereby established in the Treasury  
9 of the United States the “Afghanistan Infrastructure  
10 Fund”. Of the funds made available in section 1101 of this  
11 Act, \$400,000,000 is available for the “Afghanistan Infra-  
12 structure Fund”, to remain available until September 30,  
13 2012: Provided, That such sums shall be available for infra-  
14 structure projects in Afghanistan, notwithstanding any  
15 other provision of law, which shall be undertaken by the  
16 Secretary of State, unless the Secretary of State and the  
17 Secretary of Defense jointly decide that a specific project  
18 will be undertaken by the Department of Defense: Provided  
19 further, That the infrastructure referred to in the preceding  
20 proviso is in support of the counterinsurgency strategy, re-  
21 quiring funding for facility and infrastructure projects, in-  
22 cluding water, power, and transportation projects and re-  
23 lated maintenance and sustainment costs: Provided further,  
24 That the authority to undertake such infrastructure projects  
25 is in addition to any other authority to provide assistance



1 to foreign nations: Provided further, That any projects  
2 funded by this appropriation shall be jointly formulated  
3 and concurred in by the Secretary of State and Secretary  
4 of Defense: Provided further, That funds may be transferred  
5 to the Department of State for purposes of undertaking  
6 projects, which funds shall be considered to be economic as-  
7 sistance under the Foreign Assistance Act of 1961 for pur-  
8 poses of making available the administrative authorities  
9 contained in that Act: Provided further, That the transfer  
10 authority in the preceding proviso is in addition to any  
11 other authority available to the Department of Defense to  
12 transfer funds: Provided further, That any unexpended  
13 funds transferred to the Secretary of State under this au-  
14 thority shall be returned to the Afghanistan Infrastructure  
15 Fund if the Secretary of State, in coordination with the  
16 Secretary of Defense, determines that the project cannot be  
17 implemented for any reason, or that the project no longer  
18 supports the counterinsurgency strategy in Afghanistan:  
19 Provided further, That any funds returned to the Secretary  
20 of Defense under the previous proviso shall be available for  
21 use under this section and shall be treated in the same man-  
22 ner as funds not transferred to the Secretary of State: Pro-  
23 vided further, That contributions of funds for the purposes  
24 provided herein to the Secretary of State in accordance with  
25 section 635(d) of the Foreign Assistance Act from any per-

1 son, foreign government, or international organization may  
2 be credited to such Fund, to remain available until ex-  
3 pended, and used for such purposes: Provided further, That  
4 not later than 45 days after the end of each fiscal quarter,  
5 the Inspector General of the Department of State or the In-  
6 spector General of the United States Agency for Inter-  
7 national Development, as appropriate, shall provide to the  
8 appropriate committees of Congress an assessment in writ-  
9 ing of whether the funds provided herein to the Department  
10 of State or the United States Agency for International De-  
11 velopment are being used in the intended manner: Provided  
12 further, That the Secretary of Defense shall, not fewer than  
13 15 days prior to making transfers to or from, or obligations  
14 from, the Fund, notify the appropriate committees of Con-  
15 gress in writing of the details of any such transfer: Provided  
16 further, That the “appropriate committees of Congress” are  
17 the Committees on Armed Services, Foreign Relations, and  
18 Appropriations of the Senate and the Committees on Armed  
19 Services, Foreign Affairs, and Appropriations of the House  
20 of Representatives.

21       SEC. 2311. The authority provided by section 1021 of  
22 the Ronald W. Reagan National Defense Authorization Act  
23 for Fiscal Year 2005 (Public Law 108–375; 118 Stat.  
24 2042), as amended by section 1011 of the National Defense  
25 Authorization Act for Fiscal Year 2010 (Public Law 111–

1 84; 123 Stat. 2441), shall continue in effect through the ear-  
2 lier of the date of enactment of the National Defense Author-  
3 ization Act for Fiscal Year 2011 or the date specified in  
4 section 1106 of this Act.

5       *SEC. 2312. The authority provided by section 1022 of*  
6 *the National Defense Authorization Act for Fiscal Year*  
7 *2004 (Public Law 108–136; 10 U.S.C. 371 note), as amend-*  
8 *ed by section 1012 of the National Defense Authorization*  
9 *Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat.*  
10 *2441), shall continue in effect through the earlier of the date*  
11 *of enactment of the National Defense Authorization Act for*  
12 *Fiscal Year 2011 or the date specified in section 1106 of*  
13 *this Act.*

14       *SEC. 2313. The authority provided by section 1033 of*  
15 *the National Defense Authorization Act for Fiscal Year*  
16 *1998 (Public Law 105–85), as amended by section 1014 of*  
17 *the National Defense Authorization Act for Fiscal Year*  
18 *2010 (Public Law 111–84; 123 Stat. 2442), shall continue*  
19 *in effect through the earlier of the date of enactment of the*  
20 *National Defense Authorization Act for Fiscal Year 2011*  
21 *or the date specified in section 1106 of this Act.*

22       *SEC. 2314. The Secretary of the Navy may award a*  
23 *contract or contracts for up to 20 Littoral Combat Ships*  
24 *subject to the availability of appropriated funds for such*  
25 *purpose.*

1        *SEC. 2315. In addition to amounts otherwise made*  
2 *available by this Act, \$2,770,300,000, is hereby appro-*  
3 *priated for title I of division A of the Department of Defense*  
4 *Appropriations Act, 2010 (division A of Public Law 111–*  
5 *118).*

6        *SEC. 2316. The authority provided by sections 611,*  
7 *612, 613, 614, 615, and 616 of the National Defense Author-*  
8 *ization Act for Fiscal Year 2010 (Public Law 111–84) shall*  
9 *continue in effect through the earlier of the date of enact-*  
10 *ment of the National Defense Authorization Act for Fiscal*  
11 *Year 2011 or December 31, 2011.*

12        *SEC. 2317. The authority provided by section 631 of*  
13 *the National Defense Authorization Act for Fiscal Year*  
14 *2008 (Public Law 110–181) shall continue in effect through*  
15 *the earlier of the date of enactment of the National Defense*  
16 *Authorization Act for Fiscal Year 2011 or December 31,*  
17 *2011.*

18        *SEC. 2318. Notwithstanding subsection (b) of section*  
19 *310 of the Supplemental Appropriations Act, 2009 (Public*  
20 *Law 111–32; 123 Stat. 1870), a claim described in that*  
21 *subsection that is submitted before the date specified in sec-*  
22 *tion 1106 of this Act shall be treated as a claim for which*  
23 *payment may be made under such section 310.*

24        *SEC. 2319. The authority provided by section 1071 of*  
25 *the National Defense Authorization Act for Fiscal Year*

1 2010 (Public Law 111–84) shall continue in effect through  
2 the earlier of the date of enactment of the National Defense  
3 Authorization Act for Fiscal Year 2011 or December 31,  
4 2011.

5       *SEC. 2320. The authority provided by section 931 of*  
6 *the National Defense Authorization Act for Fiscal Year*  
7 *2007 (Public Law 109–364) shall continue in effect through*  
8 *the earlier of the date of enactment of the National Defense*  
9 *Authorization Act for Fiscal Year 2011 or December 31,*  
10 *2011.*

11       *SEC. 2321. The authority provided by section 1106 of*  
12 *the National Defense Authorization Act for Fiscal Year*  
13 *2010 (Public Law 111–84) shall continue in effect through*  
14 *the earlier of the date of enactment of the National Defense*  
15 *Authorization Act for Fiscal Year 2011 or December 31,*  
16 *2011.*

17       *SEC. 2322. (a) EXTENSION OF WAIVER.—Paragraph*  
18 *(1) of section 941(b) of the Duncan Hunter National De-*  
19 *fense Authorization Act for Fiscal Year 2009 (Public Law*  
20 *110–417; 122 Stat. 4577; 10 U.S.C. 184 note) is amended*  
21 *by striking “fiscal years 2009 and 2010” and inserting “fis-*  
22 *cal years 2009 through 2011.”.*

23       *(b) ANNUAL REPORT.—Paragraph (3) of such section*  
24 *941(b) is amended by striking “in 2010 and 2011” and*  
25 *inserting “in each year through 2012.”.*

1        *SEC. 2323. Notwithstanding section 1101 of this Act,*  
2 *sections 8006, 8076, and 8101 of the Department of Defense*  
3 *Appropriations Act, 2010 (division A of Public Law 111–*  
4 *118), shall not be applicable during the current fiscal year.*

5        *SEC. 2324. Notwithstanding any other provision of*  
6 *law, during fiscal year 2011, not more than \$150,000,000*  
7 *of the funds made available for overseas contingency oper-*  
8 *ations operation and maintenance may be obligated and*  
9 *expended for purposes of the Task Force for Business and*  
10 *Stability Operations, subject to the direction and control*  
11 *of the Secretary of Defense, with concurrence of the Sec-*  
12 *retary of State, to carry out strategic business and economic*  
13 *assistance activities in support of Operation Enduring*  
14 *Freedom: Provided, That the Secretary of Defense shall, not*  
15 *fewer than 15 days prior to the use of the authority pro-*  
16 *vided in this section, submit to the congressional defense*  
17 *committees a notice setting forth the projects to be initiated,*  
18 *including the budget and the completion date for each*  
19 *project.*

20        *SEC. 2325. Subsection (a) of section 2808 of the Mili-*  
21 *tary Construction Authorization Act for Fiscal Year 2004*  
22 *(division B of Public Law 108–136; 117 Stat. 1723), as*  
23 *amended by section 2806 of the Military Construction Au-*  
24 *thorization Act for Fiscal Year 2010 (division B of Public*

1 *Law 111–84; 123 Stat. 2660), shall continue in effect*  
2 *through the date specified in section 1106 of this Act.*

3 *SEC. 2326. Of the amounts made available to the De-*  
4 *partment of Defense in section 1101 of this Act, the Sec-*  
5 *retary of Defense shall provide \$205,000,000 to the govern-*  
6 *ment of Israel for the procurement of the Iron Dome defense*  
7 *system to counter short-range rocket threats.*

8 *SEC. 2327. (a) None of the amounts made available*  
9 *and no authority provided pursuant to section 1101 of this*  
10 *Act to the Department of Defense shall be used for—*

11 *(1) the new production of items not funded for*  
12 *production in fiscal year 2010 or prior years;*

13 *(2) the increase in production rates or levels of*  
14 *effort above those sustained with amounts made avail-*  
15 *able for fiscal year 2010; or*

16 *(3) the initiation, resumption, or continuation of*  
17 *any project, activity, operation, or organization (de-*  
18 *fin ed as any project, subproject, activity, budget ac-*  
19 *tivity, program element, and subprogram within an*  
20 *O–1 line, R–1 program element and P–1 line item in*  
21 *a budget activity within an appropriation account)*  
22 *for which appropriations, funds, or other authority*  
23 *were not available during fiscal year 2010 except as*  
24 *approved and described in subsection (b).*

1           **(b)** *The Secretary of Defense, with the approval of the*  
2 *Director of the Office of Management and Budget, may*  
3 *make a single transfer request to realign funds for execution*  
4 *in fiscal year 2011, to include new starts, increases in pro-*  
5 *duction or levels of effort, and other realignments to meet*  
6 *military requirements for which funds were not provided*  
7 *for during fiscal year 2010. The transfer of funds for such*  
8 *purposes shall be accomplished using the procedures estab-*  
9 *lished in section 8005 of the Department of Defense Appro-*  
10 *priations Act, 2010 (division A of Public Law 111–118),*  
11 *by not later than 60 days after the date of enactment of*  
12 *this Act: Provided, That with the exception of funding pro-*  
13 *vided in title I of the Department of Defense Appropriations*  
14 *Act, 2010 and for the “Defense Health Program” in section*  
15 *2301 of this Act, and section 2332 of this Act, the program*  
16 *base from which realignments are proposed shall be the allo-*  
17 *cations as prescribed in section 1101 of this Act: Provided*  
18 *further, That transfers made in the realignment reprogram-*  
19 *ming shall not be taken into account for purposes of the*  
20 *limitation on the amount of funds that may be transferred*  
21 *under section 8005 of the Department of Defense Appro-*  
22 *priation Act, 2010 (division A of Public Law 111–118).*

23           **(c)** *Subsequent to a transfer under subsection (b), the*  
24 *Secretary of Defense shall submit to the congressional de-*  
25 *fense committees reports on the baseline for application of*



1 reprogramming and transfer authorities for fiscal year  
2 2011 as provided in section 8007 of the Department of De-  
3 fense Appropriations Act, 2010 (division A of Public Law  
4 111–118).

5       *SEC. 2328. None of the amounts appropriated or au-*  
6 *thorities granted pursuant to section 1101 of this Act for*  
7 *the National Intelligence Program shall be used for new*  
8 *projects or sub-projects for which funds were not provided*  
9 *for in fiscal year 2010 or for increases in level of effort for*  
10 *previously funded projects or sub-projects above the fiscal*  
11 *year 2010 funded level unless the congressional intelligence*  
12 *committees are notified in accordance with the regular re-*  
13 *programming procedures.*

14       *SEC. 2329. Of the funds available in section 1101 of*  
15 *this Act, \$250,000,000 is hereby appropriated for “Oper-*  
16 *ation and Maintenance, Defense-Wide”, to be available*  
17 *until expended: Provided, That such funds shall only be*  
18 *available to the Secretary of Defense, acting through the Of-*  
19 *fice of Economic Adjustment of the Department of Defense,*  
20 *or for transfer to the Secretary of Education, notwith-*  
21 *standing any other provision of law, to make grants, con-*  
22 *clude cooperative agreements, or supplement other Federal*  
23 *funds to construct, renovate, repair, or expand elementary*  
24 *and secondary public schools on military installations in*  
25 *order to address capacity or facility condition deficiencies*

1 *at such schools: Provided further, That in making such*  
2 *funds available, the Office of Economic Adjustment or the*  
3 *Secretary of Education shall give priority consideration to*  
4 *those military installations with schools having the most*  
5 *serious capacity or facility condition deficiencies, as deter-*  
6 *mined by the Secretary of Defense.*

7       *SEC. 2330. Of the amounts provided to the Department*  
8 *of Defense in section 1101 of this Act for operation and*  
9 *maintenance, \$300,000,000, shall be for “Operation and*  
10 *Maintenance, Defense-Wide”, to remain available until ex-*  
11 *pended. Such funds may be available for the Office of Eco-*  
12 *nomie Adjustment, notwithstanding any other provision of*  
13 *law, for transportation infrastructure improvements associ-*  
14 *ated with medical facilities related to recommendations of*  
15 *the Defense Base Closure and Realignment Commission.*

16       *SEC. 2331. None of the amounts appropriated or other-*  
17 *wise made available or authorities provided pursuant to*  
18 *section 1101 of this Act for the Department of Defense shall*  
19 *be used to initiate multi-year procurements.*

20       *SEC. 2332. In addition to amounts otherwise made*  
21 *available by this Act, \$2,000,000 is appropriated for the*  
22 *National Commission for the Review of the Research and*  
23 *Development Programs of the United States Intelligence*  
24 *Community.*

1        *SEC. 2333. For purposes of section 8089 of division*  
2 *A of the Department of Defense Appropriations Act, 2010*  
3 *(division A of Public Law 111–118), any funds transferred*  
4 *shall retain the same period of availability as when origi-*  
5 *nally appropriated.*

6        *SEC. 2334. (a) The amount provided by section 1101*  
7 *of this Act for title II of division A of the Department of*  
8 *Defense Appropriations Act, 2010 (division A of Public*  
9 *Law 111–118) is hereby reduced to reflect excess cash bal-*  
10 *ances in Department of Defense Working Capital Funds,*  
11 *as follows: From “Operation and Maintenance, Army”,*  
12 *\$483,000,000.*

13        *(b) Of the funds appropriated in Department of De-*  
14 *fense Appropriations Acts, the following funds are hereby*  
15 *rescinded from the following accounts and programs in the*  
16 *specified amounts:*

17            *(1) “Aircraft Procurement, Navy, 2010/2012”,*  
18            *\$168,000,000;*

19            *(2) “Aircraft Procurement, Air Force, 2010/*  
20            *2012”, \$136,000,000; and*

21            *(3) “Research, Development, Test and Evalua-*  
22            *tion, Air Force 2010/2011”, \$182,000,000.*

1            *CHAPTER 4—ENERGY AND WATER*  
2            *DEVELOPMENT, AND RELATED AGENCIES*

3            *SEC. 2401. Sections 106, 107, 109 through 125, 203,*  
4 *205 through 211, and 314 of the Energy Water and Devel-*  
5 *opment and Related Agencies Appropriations Act, 2010*  
6 *(Public Law 111–85) shall not apply to funds appropriated*  
7 *in this Act.*

8            *SEC. 2402. The Secretary of the Army, acting through*  
9 *the Chief of Engineers, may waive the limitation con-*  
10 *cerning total project costs in section 902 of the Water Re-*  
11 *sources Development Act of 1986 (33 U.S.C. 2280), if such*  
12 *limitation would be exceeded during fiscal year 2011 for*  
13 *any project that receives funds provided in this Act.*

14            *SEC. 2403. Notwithstanding section 1101, the level for*  
15 *“Corps of Engineers, Civil, Construction” shall be*  
16 *\$1,837,000,000.*

17            *SEC. 2404. All of the provisos under the heading*  
18 *“Corps of Engineers, Civil, Construction” in Public Law*  
19 *111–85 shall not apply to funds appropriated in this Act.*

20            *SEC. 2405. The proviso under the heading “Corps of*  
21 *Engineers, Civil, Mississippi River and Tributaries” in*  
22 *Public Law 111–85 shall not apply to funds appropriated*  
23 *in this Act.*

24            *SEC. 2406. The authority provided by section 126 of*  
25 *Public Law 111–85, which continues in effect through the*

1 *date specified in section 1106 of this Act, shall include the*  
2 *authority to undertake such modifications or emergency*  
3 *measures as the Secretary of the Army determines to be ap-*  
4 *propriate to prevent aquatic nuisance species from dis-*  
5 *persing into the Great Lakes by way of any hydrologic con-*  
6 *nection between the Great Lakes and the Mississippi River.*

7       *SEC. 2407. The last four provisos under the heading*  
8 *“Department of the Interior, Bureau of Reclamation, Water*  
9 *and Related Resources” in Public Law 111–85 shall not*  
10 *apply to funds appropriated in this Act.*

11       *SEC. 2408. Notwithstanding section 1101, the level for*  
12 *each of the following accounts under the heading “Depart-*  
13 *ment of Energy, Energy Programs” shall be as follows: “Ad-*  
14 *vanced Technology Vehicles Manufacturing Loan Pro-*  
15 *gram”, \$9,998,000; “Office of the Inspector General”,*  
16 *\$42,850,000; “Electricity Delivery and Energy Reli-*  
17 *ability”, \$158,982,000; “Nuclear Energy”, \$768,637,000;*  
18 *and “Strategic Petroleum Reserve”, \$209,861,000.*

19       *SEC. 2409. The first proviso under the heading “De-*  
20 *partment of Energy, Energy Programs, Science” in title III*  
21 *of the Energy and Water Development Appropriations Act,*  
22 *2010 (Public Law 111–85) shall not apply to funds appro-*  
23 *priated in this Act.*

24       *SEC. 2410. Up to a total of \$300,000,000 of funds pro-*  
25 *vided by section 1101 for “Department of Energy, Energy*

1 *Programs, Energy Efficiency and Renewable Energy” and*  
2 *“Department of Energy, Energy Programs, Science” may*  
3 *be transferred by the Secretary of Energy to “Advanced Re-*  
4 *search Projects Agency—Energy”: Provided, That of the*  
5 *funds transferred, the Director of the Advanced Research*  
6 *Projects Agency—Energy shall have the authority to fix*  
7 *basic pay and payments in addition to basic pay without*  
8 *regard to the civil service laws, provided that aggregate pay*  
9 *does not exceed the Vice President’s salary as specified in*  
10 *3 U.S.C. 104.*

11 *SEC. 2411. Notwithstanding section 1101, subject to*  
12 *section 502 of the Congressional Budget Act of 1974,*  
13 *amounts necessary to support commitments to guarantee*  
14 *loans under title XVII of the Energy Policy Act of 2005,*  
15 *not to exceed a total principal amount of \$10,000,000,000,*  
16 *to remain available until committed: Provided, That of such*  
17 *amount \$7,000,000,000 is for nuclear power facilities and*  
18 *\$3,000,000,000 is for fossil energy technologies: Provided*  
19 *further, That these amounts are in addition to authorities*  
20 *provided in any other Act: Provided further, That for*  
21 *amounts collected pursuant to section 1702(b)(2) of the En-*  
22 *ergy Policy Act of 2005, the source of such payment received*  
23 *from borrowers may not be a loan or other debt obligation*  
24 *that is guaranteed by the Federal Government: Provided*  
25 *further, That pursuant to section 1702(b)(2) of the Energy*

1 *Policy Act of 2005, no appropriations are available to pay*  
2 *the subsidy cost of such guarantees for nuclear power facili-*  
3 *ties or fossil energy technologies: Provided further, That*  
4 *none of the loan guarantee authority made available in this*  
5 *Act shall be available for commitments to guarantee loans*  
6 *for any projects with respect to which funds, personnel, or*  
7 *property (tangible or intangible) of any Federal agency, in-*  
8 *strumentality, personnel, or affiliated entity are expected*  
9 *to be used (directly or indirectly) through acquisitions, con-*  
10 *tracts, demonstrations, exchanges, grants, incentives, leases,*  
11 *procurements, sales, other transaction authority, or other*  
12 *arrangements, to support the project or to obtain goods or*  
13 *services from the project: Provided further, That the pre-*  
14 *vious proviso shall not be interpreted as precluding the use*  
15 *of the loan guarantee authority in this Act for commitments*  
16 *to guarantee loans for: (1) projects as a result of such*  
17 *projects benefitting from otherwise allowable Federal in-*  
18 *come tax benefits; (2) projects as a result of such projects*  
19 *benefitting from being located on Federal land pursuant to*  
20 *a lease or right-of-way agreement for which all consider-*  
21 *ation for all uses is: (A) paid exclusively in cash; (B) depos-*  
22 *ited in the Treasury as offsetting receipts; and (C) equal*  
23 *to the fair market value as determined by the head of the*  
24 *relevant Federal agency; (3) projects as a result of such*  
25 *projects benefitting from Federal insurance programs, in-*

1 *cluding under section 170 of the Atomic Energy Act of 1954*  
2 *(42 U.S.C. 2210; commonly known as the “Price-Anderson*  
3 *Act”); or (4) electric generation projects using transmission*  
4 *facilities owned or operated by a Federal Power Marketing*  
5 *Administration or the Tennessee Valley Authority that have*  
6 *been authorized, approved, and financed independent of the*  
7 *project receiving the guarantee: Provided further, That none*  
8 *of the loan guarantee authority made available in this Act*  
9 *shall be available for any project unless the Director of the*  
10 *Office of Management and Budget has certified in advance*  
11 *in writing that the loan guarantee and the project comply*  
12 *with the provisos under this section: Provided further, That*  
13 *in addition to amounts otherwise made available by this*  
14 *Act, \$306,000,000 is appropriated, to remain available*  
15 *until expended, for the cost of loan guarantees for projects*  
16 *that employ: (1) new or significantly improved technologies*  
17 *of renewable energy systems or efficient end-use energy tech-*  
18 *nologies under section 1703 of the Energy Policy Act of*  
19 *2005; or (2) notwithstanding section 1703(a)(2), commer-*  
20 *cial technologies of renewable energy systems, efficient end-*  
21 *use energy technologies, or leading edge biofuel projects:*  
22 *Provided further, That of the authority provided for com-*  
23 *mitments to guarantee loans under “Department of Energy,*  
24 *Energy Programs, Title 17 Innovative Technology Loan*  
25 *Guarantee Program” in title III of division C of Public*



1 *Law 111–8 and title III of division C of Public Law 110–*  
2 *161, \$18,000,000,000 is rescinded: Provided further, That*  
3 *an additional amount for necessary administrative ex-*  
4 *penses to carry out this Loan Guarantee program,*  
5 *\$58,000,000 is appropriated, to remain available until ex-*  
6 *pended: Provided further, That \$58,000,000 of the fees col-*  
7 *lected pursuant to section 1702(h) of the Energy Policy Act*  
8 *of 2005 shall be credited as offsetting collections to this ac-*  
9 *count to cover administrative expenses and shall remain*  
10 *available until expended, so as to result in a final fiscal*  
11 *year 2011 appropriations from the general fund estimated*  
12 *at not more than \$0: Provided further, That fees collected*  
13 *under such section 1702(h) in excess of the amount appro-*  
14 *priated for administrative expenses shall not be available*  
15 *until appropriated.*

16       *SEC. 2412. Notwithstanding section 1101, the level for*  
17 *“Atomic Energy Defense Activities, National Nuclear Secu-*  
18 *rity Administration, Weapons Activities” shall be*  
19 *\$7,008,835,000: Provided, That \$624,000,000 of such*  
20 *amount shall be available only upon the Senate giving its*  
21 *advice and consent to the ratification of the Treaty between*  
22 *the United States of America and the Russian Federation*  
23 *on Measures for the Further Reduction and Limitation of*  
24 *Strategic Offensive Arms (commonly known as the “New*  
25 *START Treaty”).*

1        *SEC. 2413. All of the provisos under the heading*  
2 *“Atomic Energy Defense Activities, National Nuclear Secu-*  
3 *rity Administration, Weapons Activities” in title III of the*  
4 *Energy and Water Development Appropriations Act, 2010*  
5 *(Public Law 111–85) shall not apply to funds appropriated*  
6 *in this Act.*

7        *SEC. 2414. Notwithstanding section 1101, the level for*  
8 *“Atomic Energy Defense Activities, National Nuclear Secu-*  
9 *rity Administration, Defense Nuclear Nonproliferation”*  
10 *shall be \$2,575,000,000.*

11        *SEC. 2415. The first proviso under the heading “Atom-*  
12 *ic Energy Defense Activities, National Nuclear Security*  
13 *Administration, Office of the Administrator” in title III*  
14 *of the Energy and Water Development Appropriations Act,*  
15 *2010 (Public Law 111–85) shall not apply to funds appro-*  
16 *priated in this Act.*

17        *SEC. 2416. Notwithstanding section 1101, the level for*  
18 *“Department of Energy, Environmental and Other Defense*  
19 *Activities, Defense Environmental Cleanup” shall be*  
20 *\$5,263,031,000, of which \$33,700,000 shall be transferred*  
21 *to the “Uranium Enrichment Decontamination and De-*  
22 *commissioning Fund”.*

23        *SEC. 2417. (a) Notwithstanding any other provision*  
24 *of law, no funds appropriated in this or any other Act may*  
25 *be used in fiscal year 2011 to transfer, sell, barter, dis-*

1 *tribute, or otherwise provide more than 3,300,000 pounds*  
2 *of natural uranium equivalent of uranium in any form*  
3 *from the Department of Energy's inventory.*

4 *(b) Any transfer, sale, barter, distribution, or other*  
5 *provision of uranium in any form under subsection (a)*  
6 *shall be carried out consistent with the Department of Ener-*  
7 *gy's Excess Uranium Inventory Management Plan, dated*  
8 *December 16, 2008.*

9 *(c) The prohibition in subsection (a) shall not apply*  
10 *to the transfer, sale, barter, distribution, or other provision*  
11 *of uranium in any form for use in initial reactor cores.*

12 *(d) Not less than 30 days prior to the transfer, sale,*  
13 *barter, distribution, or other provision of uranium in any*  
14 *form in accordance with this section, the Secretary of En-*  
15 *ergy shall notify the Committees on Appropriations of the*  
16 *House of Representatives and the Senate. Such notification*  
17 *shall include the following information:*

18 *(1) The amount of uranium to be transferred,*  
19 *sold, bartered, distributed, or otherwise provided.*

20 *(2) The estimated market value of the uranium.*

21 *(3) The expected date of the transfer, sale, barter,*  
22 *distribution, or provision of the uranium.*

23 *(4) The recipient of uranium.*

24 *SEC. 2418. Notwithstanding section 1105, no appro-*  
25 *priation, funds, or authority made available pursuant to*

1 *section 1101 for the Department of Energy shall be used*  
2 *to initiate or resume any project or activity or to initiate*  
3 *Requests For Proposals or similar arrangements (including*  
4 *Requests for Quotations, Requests for Information, and*  
5 *Funding Opportunity Announcements) for a program or*  
6 *activity if the program or activity has not been funded by*  
7 *Congress, unless prior approval is received from the Com-*  
8 *mittees on Appropriations of the House of Representatives*  
9 *and the Senate.*

10 *SEC. 2419. During the period specified in section 1106*  
11 *of this Act, section 15751(b) of title 40, United States Code,*  
12 *shall not apply to the Northern Border Regional Commis-*  
13 *sion.*

14 *SEC. 2420. Within 30 days of enactment of this Act,*  
15 *the Department of Energy, Corps of Engineers, Civil, and*  
16 *Bureau of Reclamation shall submit to the Committees on*  
17 *Appropriations of the House of Representatives and the*  
18 *Senate a spending, expenditure, or operating plan for fiscal*  
19 *year 2011 at a level of detail below the account level.*

20 *CHAPTER 5—FINANCIAL SERVICES AND*  
21 *GENERAL GOVERNMENT*

22 *SEC. 2501. Notwithstanding section 1101, the level for*  
23 *each of the following accounts of the Department of the*  
24 *Treasury shall be as follows: “Departmental Offices, Sala-*  
25 *ries and Expenses”, \$320,088,000; “Special Inspector Gen-*

1 eral for the Troubled Asset Relief Program, Salaries and  
2 Expenses”, \$36,300,000; “Treasury Inspector General for  
3 Tax Administration, Salaries and Expenses”,  
4 \$155,452,000; “Financial Management Service, Salaries  
5 and Expenses”, \$235,253,000; “Alcohol and Tobacco Tax  
6 and Trade Bureau, Salaries and Expenses”, \$101,000,000;  
7 and “Bureau of the Public Debt, Administering the Public  
8 Debt”, \$185,985,000.

9 SEC. 2502. Notwithstanding section 1101, under the  
10 heading “Department of the Treasury, Departmental Of-  
11 fices, Salaries and Expenses” in division C of Public Law  
12 111–117, the requirement to transfer funds to the National  
13 Academy of Sciences for a carbon audit of the tax code shall  
14 not apply to funds appropriated by this Act.

15 SEC. 2503. Notwithstanding section 1101, under the  
16 heading “Department of the Treasury, Department-wide  
17 Systems and Capital Investments Programs” in division C  
18 of Public Law 111–117, the first proviso shall not apply  
19 to funds appropriated by this Act.

20 SEC. 2504. Notwithstanding section 1101, under the  
21 heading “Alcohol and Tobacco Tax and Trade Bureau” in  
22 division C of Public Law 111–117, the first proviso shall  
23 not apply to funds appropriated by this Act.

1        *SEC. 2505. Of the unobligated balances available under*  
2 *the heading “Treasury Forfeiture Fund”, \$350,000,000 is*  
3 *rescinded.*

4        *SEC. 2506. Notwithstanding section 1101, the require-*  
5 *ment to transfer funds to the Capital Magnet Fund under*  
6 *the heading “Department of the Treasury, Community De-*  
7 *velopment Financial Institutions Fund Program Account”*  
8 *in title I of division C of Public Law 111–117 shall not*  
9 *apply to funds appropriated by this Act, and the funds sub-*  
10 *ject to such transfer shall remain with the aggregate amount*  
11 *of funds provided under the first paragraph under such*  
12 *heading in such Public Law.*

13        *SEC. 2507. Notwithstanding section 1101, the level for*  
14 *each of the following accounts of the Internal Revenue Serv-*  
15 *ice shall be as follows: “Taxpayer Services”, \$2,338,215,000;*  
16 *“Operations Support”, \$4,159,884,000; “Business Systems*  
17 *Modernization”, \$363,897,000; and “Health Insurance Tax*  
18 *Credit Administration”, \$18,987,000.*

19        *SEC. 2508. Notwithstanding section 1101, the level for*  
20 *“Internal Revenue Service, Enforcement” shall be*  
21 *\$5,629,500,000, of which not less than \$125,500,000 shall*  
22 *be for enforcement related to offshore tax evasion.*

23        *SEC. 2509. Notwithstanding section 1101, the level for*  
24 *each of the following accounts shall be \$0: “Executive Office*  
25 *of the President and Funds Appropriated to the President,*

1 *Partnership Fund for Program Integrity Innovation*"; "*Of-*  
2 *fice of National Drug Control Policy, Counterdrug Tech-*  
3 *nology Assessment Center*"; "*District of Columbia, Federal*  
4 *Payment for Consolidated Laboratory Facility*"; and "*Elec-*  
5 *tion Assistance Commission, Election Reform Programs*".

6       SEC. 2510. Notwithstanding section 1101, the level for  
7 each of the following accounts shall be as follows: "*Executive*  
8 *Office of the President and Funds Appropriated to the*  
9 *President, White House Repair and Restoration*",  
10 \$2,005,000; "*Executive Office of the President and Funds*  
11 *Appropriated to the President, National Security Council*  
12 *and Homeland Security Council*", \$13,984,000; "*The Judi-*  
13 *ciary, Fees of Jurors and Commissioners*", \$52,410,000;  
14 "*The Judiciary, Vaccine Injury Compensation Trust*  
15 *Fund*", \$4,785,000; "*Administrative Conference of the*  
16 *United States*", \$2,750,000; "*Federal Deposit Insurance*  
17 *Corporation, Office of the Inspector General*", \$47,916,000;  
18 "*Harry S Truman Scholarship Foundation*", \$1,010,000;  
19 and "*Office of Special Counsel, Salaries and Expenses*",  
20 \$19,435,000.

21       SEC. 2511. Any expenses incurred by the *Election As-*  
22 *sistance Commission* using amounts appropriated under  
23 the heading "*Election Assistance Commission, Election Re-*  
24 *form Programs*" in the *Transportation, Treasury, and*  
25 *Independent Agencies Appropriations Act, 2004 (Public*

1 *Law 108–199; 118 Stat. 327) for any program or activity*  
2 *which the Commission is authorized to carry out under the*  
3 *Help America Vote Act of 2002 shall be considered to have*  
4 *been incurred for the programs and activities described*  
5 *under such heading.*

6 *SEC. 2512. Notwithstanding section 1101, the level for*  
7 *“The Judiciary, Courts of Appeals, District Courts, and*  
8 *Other Judicial Services, Salaries and Expenses” shall be*  
9 *\$5,137,236,000; Provided, That notwithstanding section*  
10 *302 of division C of Public Law 111–117, not to exceed*  
11 *\$101,962,000 shall be available for transfer between ac-*  
12 *counts to maintain fiscal year 2010 operating levels.*

13 *SEC. 2513. Section 203(c) of the Judicial Improve-*  
14 *ments Act of 1990 (Public Law 101–650; 28 U.S.C. 133*  
15 *note), is amended—*

16 *(1) in the third sentence (relating to the District*  
17 *of Kansas), by striking “19 years” and inserting “20*  
18 *years”;*

19 *(2) in the sixth sentence (relating to the Northern*  
20 *District of Ohio), by striking “19 years” and insert-*  
21 *ing “20 years”; and*

22 *(3) in the seventh sentence (relating to the Dis-*  
23 *trict of Hawaii), by striking “16 years” and inserting*  
24 *“17 years”.*



1        *SEC. 2514. Notwithstanding any other provision of*  
2 *this Act, except section 1106, the District of Columbia may*  
3 *expend local funds for programs and activities under the*  
4 *heading “District of Columbia Funds” for such programs*  
5 *and activities under title IV of S. 3677 (111th Congress),*  
6 *as reported by the Committee on Appropriations of the Sen-*  
7 *ate, at the rate set forth under “District of Columbia*  
8 *Funds” as included in the Fiscal Year 2011 Budget Request*  
9 *Act (D.C. Act 18–448), as modified as of the date of the*  
10 *enactment of this Act.*

11        *SEC. 2515. Notwithstanding section 1101, the limits*  
12 *set forth in section 702 of division C of Public Law 111–*  
13 *117 shall not apply to any vehicle that is a commercial*  
14 *item and which operates on emerging motor vehicle tech-*  
15 *nology, including electric, plug-in hybrid electric, and hy-*  
16 *drogen fuel cell vehicles.*

17        *SEC. 2516. Notwithstanding section 1101, the aggre-*  
18 *gate amount of new obligational authority provided under*  
19 *the heading “General Services Administration, Real Prop-*  
20 *erty Activities, Federal Buildings Fund, Limitations on*  
21 *Availability of Revenue” for Federal buildings and court-*  
22 *houses and other purposes of the Fund shall be*  
23 *\$8,228,561,000, of which \$492,722,000 is provided for*  
24 *“Construction and Acquisition” and \$500,067,000 is pro-*  
25 *vided for “Repairs and Alterations”: Provided, That the*

1 *Administrator of General Services is authorized to initiate*  
2 *design, construction, repair, alteration, leasing, and other*  
3 *projects through existing authorities of the Administrator:*  
4 *Provided further, That the General Services Administration*  
5 *shall submit a detailed plan, by project, regarding the use*  
6 *of funds to the Committees on Appropriations of the House*  
7 *of Representatives and the Senate within 30 days of enact-*  
8 *ment of this section and will provide notification to the*  
9 *Committees within 15 days prior to any changes regarding*  
10 *the use of these funds.*

11       *SEC. 2517. The matter pertaining to the amount of*  
12 *\$1,000,000 under the heading “General Services Adminis-*  
13 *tration, Operating Expenses” in division C of Public Law*  
14 *111–117 (123 Stat. 3190) shall not apply to funds appro-*  
15 *priated by this Act.*

16       *SEC. 2518. Notwithstanding section 1101, the level for*  
17 *each of the following accounts of the National Archives and*  
18 *Records Administration shall be as follows: “Operating Ex-*  
19 *penses”, \$348,689,000; “Office of Inspector General”,*  
20 *\$4,250,000; “Electronic Records Archives”, \$72,000,000, of*  
21 *which \$52,500,000 shall remain available until September*  
22 *30, 2013; “Repairs and Restoration” , \$11,848,000; and*  
23 *“National Historical Publications and Records Commis-*  
24 *sion, Grants Program”, \$10,000,000.*

1        *SEC. 2519. Public Law 109–115 is amended, under the*  
2 *heading “National Archives and Records Administration,*  
3 *Repairs and Restoration”, by striking “of which \$1,500,000*  
4 *is to construct a new regional archives and records facility*  
5 *in Anchorage, Alaska,”.*

6        *SEC. 2520. Division H of Public Law 108–447 is*  
7 *amended, under the heading “National Archives and*  
8 *Records Administration, Repairs and Restoration”, by*  
9 *striking “of which \$3,000,000 is for site preparation and*  
10 *construction management to construct a new regional ar-*  
11 *chives and records facility in Anchorage, Alaska, and”.*

12        *SEC. 2521. Public Law 111–240 is amended in section*  
13 *1114 and section 1704 by striking “December 31, 2010”*  
14 *and inserting “September 30, 2011” each time it appears*  
15 *and in section 1704 by adding at the end the following:*  
16 *“(c) For purposes of the loans made under this section, the*  
17 *maximum guaranteed amount outstanding to the borrower*  
18 *may not exceed \$4,500,000.”.*

19        *SEC. 2522. Notwithstanding section 1101, the level for*  
20 *“United States Postal Service, Payment to the Postal Serv-*  
21 *ice Fund” shall be \$29,000,000; and, notwithstanding sec-*  
22 *tion 1109, an additional \$74,905,000 shall be available for*  
23 *obligation on October 1, 2011.*

1        *SEC. 2523. Of the unobligated balances of prior year*  
2 *appropriations available under the heading “Privacy and*  
3 *Civil Liberties Oversight Board”, \$1,500,000 is rescinded.*

4        *SEC. 2524. Section 617 of division C of Public Law*  
5 *111–117 is amended by striking “December 31, 2009” and*  
6 *inserting “December 31, 2010”.*

7        *SEC. 2525. Of the unobligated balances of prior year*  
8 *appropriations available under the heading “Federal Com-*  
9 *munications Commission, Salaries and Expenses”,*  
10 *\$2,800,000 is rescinded.*

11        *SEC. 2526. Section 710 of division C of Public Law*  
12 *111–117 is amended in subsection (c) by striking “Sep-*  
13 *tember 30, 2009” and inserting “September 30, 2010” and*  
14 *in subsection (e) by striking “September 30, 2009” and in-*  
15 *serting “September 30, 2010”.*

16        *SEC. 2527. Section 805(b) of division C of Public Law*  
17 *111–117 is amended by striking “November 1, 2010” and*  
18 *inserting “November 1, 2011”.*

19        *SEC. 2528. Section 302 of the Universal Service*  
20 *Antideficiency Temporary Suspension Act is amended by*  
21 *striking “December 31, 2010” each place it appears and*  
22 *inserting “December 31, 2011”.*

23                    *CHAPTER 6—HOMELAND SECURITY*

24        *SEC. 2601. Within 30 days after the date of enactment*  
25 *of this Act, the Department of Homeland Security shall sub-*

1 *mit to the Committees on Appropriations of the House of*  
2 *Representatives and the Senate an expenditure plan for fis-*  
3 *cal year 2011 at a level of specificity below the account level*  
4 *for the activities listed in the detailed funding table con-*  
5 *tained in Public Law 111–83.*

6       *SEC. 2602. Notwithstanding section 1101, the level for*  
7 *“Office of the Under Secretary for Management” shall be*  
8 *\$366,617,000, of which \$129,384,000 shall remain available*  
9 *until expended for headquarters consolidation and improve-*  
10 *ments.*

11       *SEC. 2603. Notwithstanding section 1101, the level for*  
12 *“Office of the Federal Coordinator for Gulf Coast Rebuild-*  
13 *ing” shall be \$0.*

14       *SEC. 2604. Notwithstanding section 1101, the level for*  
15 *each of the following accounts shall be as follows: “U.S. Cus-*  
16 *toms and Border Protection, Salaries and Expenses”,*  
17 *\$8,208,013,000; “U.S. Customs and Border Protection, Au-*  
18 *tomation Modernization”, \$347,575,000; “U.S. Customs*  
19 *and Border Protection, Border Security Fencing, Infra-*  
20 *structure, and Technology”, \$574,173,000; and “U.S. Cus-*  
21 *toms and Border Protection, Construction and Facilities*  
22 *Management”, \$275,740,000.*

23       *SEC. 2605. Notwithstanding section 1101, the level for*  
24 *each of the following accounts shall be as follows: “U.S. Im-*  
25 *migration and Customs Enforcement, Salaries and Ex-*

1 *penses*”, \$5,437,834,000; and “*U.S. Immigration and Cus-*  
2 *toms Enforcement, Automation Modernization*”,  
3 \$84,700,000.

4 *SEC. 2606. Notwithstanding section 1101, the level for*  
5 *each of the following accounts shall be as follows: “Trans-*  
6 *portation Security Administration, Aviation Security*”,  
7 \$5,269,490,000, of which \$320,000,000 shall be for the pur-  
8 *chase and installation of explosives detection systems;*  
9 *“Transportation Security Administration, Surface Trans-*  
10 *portation Security*”, \$137,558,000; and “*Transportation*  
11 *Security Administration, Federal Air Marshals*”,  
12 \$926,711,000: *Provided, That in applying the second pro-*  
13 *viso under the Aviation Security heading with respect to*  
14 *amounts made available by this Act, “9 percent” shall be*  
15 *substituted for “28 percent”: Provided further, That secu-*  
16 *rity service fees authorized under section 44940 of title 49,*  
17 *United States Code, shall be credited to the “Aviation Secu-*  
18 *rity” appropriation as offsetting collections and shall be*  
19 *available only for aviation security: Provided further, That*  
20 *the sum appropriated under the Aviation Security heading*  
21 *from the general fund shall be reduced on a dollar-for-dollar*  
22 *basis as such offsetting collections are received during fiscal*  
23 *year 2011, so as to result in a final fiscal year appropria-*  
24 *tion from the general fund estimated at not more than*  
25 \$3,169,490,000.

1       *SEC. 2607. Section 514 of Public Law 111–83 is*  
2 *amended to read as follows:*

3       “*SEC. 514. (a) The Assistant Secretary of Homeland*  
4 *Security (Transportation Security Administration) shall*  
5 *work with air carriers and airports to ensure that screening*  
6 *(as that term is defined in section 44901(g)(5) of title 49,*  
7 *United States Code), increases incrementally each quarter*  
8 *until the requirement under section 44901(g)(2)(B) of such*  
9 *title is met.*

10       “*(b) Not later than 120 days after the end of each*  
11 *quarter, the Assistant Secretary shall submit to the Com-*  
12 *mittees on Appropriations of the Senate and the House of*  
13 *Representatives a report on air cargo inspection statistics*  
14 *by airport and air carrier detailing the incremental*  
15 *progress being made to meet the requirement of section*  
16 *44901(g)(2)(B) of title 49, United States Code.*

17       “*(c) Not later than 180 days after the date of the enact-*  
18 *ment of the Full-Year Continuing Appropriations Act,*  
19 *2011, the Assistant Secretary shall submit to the Commit-*  
20 *tees on Appropriations of the Senate and the House of Rep-*  
21 *resentatives, a report that either—*

22               “*(1) certifies that the requirement for screening*  
23 *all air cargo on passenger aircraft by the deadline*  
24 *under section 44901(g) of title 49, United States Code*  
25 *has been met; or*

1           “(2) includes a strategy to comply with the re-  
2           quirements under section 44901(g) of title 49, United  
3           States Code, including—

4                   “(A) a plan to meet the requirement under  
5                   section 44901(g) of title 49, United States Code,  
6                   to screen 100 percent of air cargo transported on  
7                   passenger aircraft arriving in the United States  
8                   in foreign air transportation (as that term is de-  
9                   fined in section 40102 of that title); and

10                   “(B) specification of—

11                           “(i) the percentage of such air cargo  
12                           that is being screened; and

13                           “(ii) the schedule for achieving screen-  
14                           ing of 100 percent of such air cargo.

15           “(d) The Assistant Secretary shall continue to submit  
16           reports described in subsection (c)(2) every 180 days there-  
17           after until the Assistant Secretary certifies that the Trans-  
18           portation Security Administration has achieved screening  
19           of 100 percent of such air cargo.”.

20           SEC. 2608. (a) CIVIL PENALTIES.—Section  
21           46301(a)(5)(A)(i) of title 49, United States Code, is amend-  
22           ed—

23                   (1) by striking “or chapter 449” and inserting  
24                   “chapter 449”; and



1           (2) by inserting “, or section 46314(a)” after  
2           “44909”.

3           (b) *CRIMINAL PENALTIES.*—Section 46314(b) of title  
4 49, *United States Code*, is amended to read as follows:

5           “(b) *CRIMINAL PENALTY.*—A person violating sub-  
6 section (a) of this section shall be fined under title 18, im-  
7 prisoned for not more than 10 years, or both.”.

8           (c) *NOTICE OF PENALTIES.*—Section 46314 of title 49,  
9 *United States Code*, is amended by adding at the end the  
10 following new subsection:

11           “(c) *NOTICE OF PENALTIES.*—

12           “(1) *IN GENERAL.*—Each operator of an airport  
13 in the United States that is required to establish an  
14 air transportation security program pursuant to sec-  
15 tion 44903(c) shall ensure that signs that meet such  
16 requirements as the Secretary of Homeland Security  
17 may prescribe providing notice of the penalties im-  
18 posed under sections 46301(a)(5)(A)(i) and subsection  
19 (b) of this section, are displayed near all screening lo-  
20 cations, all locations where passengers exit the sterile  
21 area, and such other locations at the airport as the  
22 Secretary of Homeland Security determines appro-  
23 priate.

24           “(2) *EFFECT OF SIGNS ON PENALTIES.*—An in-  
25 dividual shall be subject to the penalty provided for

1        *under section 46301(a)(5)(A)(i) and subsection (b) of*  
2        *this section without regard to whether or not signs are*  
3        *displayed at an airport as required by paragraph*  
4        *(1).”.*

5        *SEC. 2609. Notwithstanding section 1101, the level for*  
6        *“Coast Guard, Operating Expenses” shall be*  
7        *\$6,913,113,000, of which \$241,503,000 made available for*  
8        *overseas deployments and other activities is designated as*  
9        *an emergency requirement and necessary to meet emergency*  
10       *needs pursuant to sections 403(a) and 423(b) of S. Con.*  
11       *Res. 13 (111th Congress), the concurrent resolution on the*  
12       *budget for fiscal year 2010: Provided, That the Coast Guard*  
13       *may decommission one Medium Endurance Cutter, two*  
14       *High Endurance Cutters, four HU-25 aircraft, the Mari-*  
15       *time Intelligence Fusion Center, and one Maritime Safety*  
16       *and Security Team, and make staffing changes at the Coast*  
17       *Guard Investigative Service, as outlined in its budget jus-*  
18       *tification documents for fiscal year 2011 as submitted to*  
19       *the Committees on Appropriations of the Senate and House*  
20       *of Representatives.*

21       *SEC. 2610. Notwithstanding section 1101, the level for*  
22       *“Coast Guard, Acquisition, Construction, and Improve-*  
23       *ments” shall be \$1,477,985,000, of which \$2,000,000 shall*  
24       *be derived from the Coast Guard Housing Fund, established*  
25       *by section 687 of title 14, United States Code, and shall*

1 *remain available until expended for military family hous-*  
2 *ing; of which \$73,200,000 shall be for vessels, small boats,*  
3 *critical infrastructure and related equipment; of which*  
4 *\$36,000,000 shall be for other equipment; of which*  
5 *\$69,200,000 shall be for shore facilities and aids to naviga-*  
6 *tion facilities; of which \$106,083,000 shall be available for*  
7 *personnel compensation and benefits and related costs; and*  
8 *of which \$1,191,502,000 shall be for the Integrated Deep-*  
9 *water Systems program: Provided, That of the funds made*  
10 *available for the Integrated Deepwater Systems program,*  
11 *\$103,000,000 is for aircraft and \$933,002,000 is for surface*  
12 *ships.*

13 *SEC. 2611. Notwithstanding section 1101, the level for*  
14 *“Coast Guard, Alteration of Bridges” shall be \$0.*

15 *SEC. 2612. (a) Subject to subsection (b), for fiscal year*  
16 *2011, the Coast Guard may enter into agreements under*  
17 *section 1535 of title 31, United States Code, with the Sec-*  
18 *retary of the Navy for the disposal of Coast Guard vessels*  
19 *in accordance with sections 7305 and 7305a of title 10,*  
20 *United States Code.*

21 *(b) Any agreement entered into under subsection (a)*  
22 *shall be at no additional cost to the United States Navy.*

23 *SEC. 2613. In addition to amounts otherwise made*  
24 *available by this Act to “United States Secret Service, Sala-*  
25 *ries and Expenses”, \$14,000,000 is appropriated for costs*

1 *associated with protection to be provided to candidates in*  
2 *the 2012 presidential campaign and \$7,000,000 is appro-*  
3 *priated for costs associated with implementation of the*  
4 *United States Secret Service Uniformed Division Mod-*  
5 *ernization Act of 2010 (Public Law 111–282).*

6 *SEC. 2614. Notwithstanding section 1101, the level for*  
7 *“National Protection and Programs Directorate, Infra-*  
8 *structure Protection and Information Security” shall be*  
9 *\$878,316,000.*

10 *SEC. 2615. Notwithstanding section 1101, the level for*  
11 *“United States Visitor and Immigrant Status Indicator*  
12 *Technology” shall be \$339,263,000.*

13 *SEC. 2616. Notwithstanding section 1101, the level for*  
14 *“Federal Emergency Management Agency, State and Local*  
15 *Programs” shall be \$2,913,058,000: Provided, That 4.5 per-*  
16 *cent of the amount provided shall be transferred to the Fed-*  
17 *eral Emergency Management Agency “Management and*  
18 *Administration” account for program administration: Pro-*  
19 *vided further, That paragraph (10) and subparagraphs (B)*  
20 *and (C) of paragraph (13) under the heading “Federal*  
21 *Emergency Management Agency, State and Local Pro-*  
22 *grams” in Public Law 111–83 shall not apply to funds ap-*  
23 *propriated by this Act: Provided further, That \$12,558,000*  
24 *is available under paragraph (12) under such heading in*  
25 *such public law, to be competitively awarded.*

1        *SEC. 2617. Notwithstanding section 1101, in fiscal*  
2 *year 2011, funds shall not be available from the National*  
3 *Flood Insurance Fund under section 1310 of the National*  
4 *Flood Insurance Act of 1968 (42 U.S.C. 4017) for operating*  
5 *expenses in excess of \$110,000,000, and for agents' commis-*  
6 *sions and taxes in excess of \$963,339,000: Provided, That*  
7 *notwithstanding section 1101, for activities under the Na-*  
8 *tional Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.)*  
9 *and the Flood Disaster Protection Act of 1973 (42 U.S.C.*  
10 *4001 et seq.), the level shall be \$169,000,000, which shall*  
11 *be derived from offsetting collections assessed and collected*  
12 *under 1308(d) of the National Flood Insurance Act of 1968*  
13 *(42 U.S.C. 4015(d)), of which not to exceed \$22,145,000*  
14 *shall be available for salaries and expenses associated with*  
15 *flood mitigation and flood insurance operations; and not*  
16 *less than \$146,855,000 shall be available for flood plain*  
17 *management and flood mapping, which shall remain avail-*  
18 *able until September 30, 2012.*

19        *SEC. 2618. Notwithstanding the requirement under*  
20 *section 34(a)(1)(A) of the Federal Fire Prevention and Con-*  
21 *trol Act of 1974 (15 U.S.C. 2229a(a)(1)(A)) that grants*  
22 *must be used to increase the number of firefighters in fire*  
23 *departments, the Secretary of Homeland Security, in mak-*  
24 *ing grants under section 34 of such Act using the funds*  
25 *appropriated for fiscal year 2011, shall grant waivers from*

1 *the requirements of subsections (a)(1)(B), (c)(1), (c)(2), and*  
2 *(c)(4)(A) of such section: Provided further, That section*  
3 *34(a)(1)(E) of such Act shall not apply with respect to*  
4 *funds appropriated for fiscal year 2011 for grants under*  
5 *section 34 of such Act: Provided further, That the Secretary*  
6 *of Homeland Security, in making grants under section 34*  
7 *of such Act, shall ensure that funds appropriated for fiscal*  
8 *year 2011 are made available for the retention of fire-*  
9 *fighters.*

10 *SEC. 2619. Notwithstanding section 1101, the level for*  
11 *“Federal Emergency Management Agency, National*  
12 *Predisaster Mitigation Fund” shall be \$85,000,000.*

13 *SEC. 2620. Notwithstanding section 1101, the level for*  
14 *“Federal Emergency Management Agency, Disaster Relief”*  
15 *shall be increased by \$130,000,000.*

16 *SEC. 2621. Section 203 (m) of the Robert T. Stafford*  
17 *Disaster Relief and Emergency Assistance Act (42 U.S.C.*  
18 *5133(m)) is amended by striking “September 30, 2010” and*  
19 *inserting “September 30, 2011”.*

20 *SEC. 2622. Notwithstanding section 1101, the level for*  
21 *“United States Citizenship and Immigration Services”*  
22 *shall be \$306,400,000, of which \$176,000,000 shall be for*  
23 *processing applications for asylum or refugee status, and*  
24 *of which \$103,400,000 is for the E-Verify Program, as au-*  
25 *thorized by section 402 of the Illegal Immigration Reform*

1 *and Immigrant Responsibility Act (8 U.S.C. 1324a note):*  
2 *Provided, That none of the funds made available in this*  
3 *section shall be available for development of the system com-*  
4 *monly known as the “REAL ID hub”.*

5 *SEC. 2623. Notwithstanding section 1101, the level for*  
6 *“Federal Law Enforcement Training Center, Acquisition,*  
7 *Construction, Improvements, and Related Expenses” shall*  
8 *be \$38,456,000.*

9 *SEC. 2624. Notwithstanding section 1101, the level for*  
10 *“Science and Technology, Research, Development, Acquisi-*  
11 *tion, and Operations” shall be \$821,906,000: Provided,*  
12 *That the final proviso under this heading in Public Law*  
13 *111–83 (related to the National Bio- and Agro-defense Fa-*  
14 *cility) shall have no effect with respect to all amounts avail-*  
15 *able under this heading.*

16 *SEC. 2625. Notwithstanding section 1101, the level for*  
17 *“Domestic Nuclear Detection Office, Research, Development,*  
18 *and Operations” shall be \$299,537,000.*

19 *SEC. 2626. Section 560 of Public Law 111–83 (123*  
20 *Stat. 2181) is amended to read as follows:*

21 *“SEC. 560. (a) No funding provided in this or previous*  
22 *appropriations Acts shall be used for construction of the Na-*  
23 *tional Bio- and Agro-defense Facility in Manhattan, Kan-*  
24 *sas until—*

1           “(1) the Department of Homeland Security has  
2           completed 50 percent of National Bio- and Agro-de-  
3           fense Facility design planning and submitted a re-  
4           vised site-specific biosafety and biosecurity mitigation  
5           risk assessment that describes how to significantly re-  
6           duce risks of conducting essential research and diag-  
7           nostic testing at the National Bio- and Agro-defense  
8           Facility and addresses shortcomings identified in the  
9           National Academy of Sciences’ evaluation of the ini-  
10          tial site-specific biosafety and biosecurity mitigation  
11          risk assessment; and

12           “(2) the National Academy of Sciences submits  
13          an evaluation of the revised site-specific biosafety and  
14          biosecurity mitigation risk assessment.

15          “(b) The revised site-specific biosafety and biosecurity  
16          mitigation risk assessment required by subsection (a)  
17          shall—

18           “(1) include a quantitative risk assessment for  
19           foot-and-mouth disease virus, in particular epidemio-  
20           logical and economic impact modeling to determine  
21           the overall risk of operating the facility for its ex-  
22           pected 50-year life span, taking into account strate-  
23           gies to mitigate risk of foot-and-mouth disease virus  
24           release from the laboratory and ensure safe operations



1       *at the approved National Bio- and Agro-defense Fa-*  
2       *cility site;*

3             *“(2) address the impact of surveillance, response,*  
4       *and mitigation plans (developed in consultation with*  
5       *local, State, and national authorities and appropriate*  
6       *stakeholders) if a release occurs, to detect and control*  
7       *the spread of disease; and*

8             *“(3) include overall risks of the most dangerous*  
9       *pathogens the Department of Homeland Security ex-*  
10       *pects to hold in the National Bio- and Agro-defense*  
11       *Facility’s biosafety level 4 facility, and effectiveness of*  
12       *mitigation strategies to reduce those risks.*

13            *“(c) The Secretary of Homeland Security shall enter*  
14       *into a contract with the National Academy of Sciences to*  
15       *evaluate the adequacy and validity of the risk assessment*  
16       *required by subsection (a). The National Academy of*  
17       *Sciences shall submit a report on such evaluation within*  
18       *4 months after the date the Department of Homeland Secu-*  
19       *rity concludes its risk assessment.”.*

20            *SEC. 2627. From the unobligated balances for “Oper-*  
21       *ations” of funds transferred to the Department of Homeland*  
22       *Security when it was created in 2003, \$1,891,657 is re-*  
23       *scinded.*

24            *SEC. 2628. From the unobligated balances available for*  
25       *prior fiscal years for “U.S. Customs and Border Protection,*

1 *Construction” for construction projects, \$99,772,000 is re-*  
2 *scinded: Provided, That the amounts rescinded under this*  
3 *section shall be limited to amounts available for Border Pa-*  
4 *trol projects and facilities.*

5 *SEC. 2629. From the unobligated balances of funds for*  
6 *the “Violent Crime Reduction Program” transferred to the*  
7 *Department of Homeland Security when it was established*  
8 *in 2003, \$4,912,245 is rescinded.*

9 *SEC. 2630. From the unobligated balances of prior*  
10 *year appropriations made available for “U.S. Customs and*  
11 *Border Protection, Salaries and Expenses” transferred to*  
12 *the Department of Homeland Security when it was estab-*  
13 *lished in 2003, \$18,122,393 is rescinded.*

14 *SEC. 2631. From the unobligated balances of prior*  
15 *year appropriations made available for “Federal Emer-*  
16 *gency Management Agency, National Pre-Disaster Mitiga-*  
17 *tion Fund”, \$18,173,641 is rescinded.*

18 *SEC. 2632. From the unobligated balances of funds for*  
19 *the “Office for Domestic Preparedness” transferred to the*  
20 *Department of Homeland Security when it was established,*  
21 *\$10,568,964 is rescinded.*

22 *SEC. 2633. From unobligated balances of prior year*  
23 *appropriations made available for United States Citizen-*  
24 *ship and Immigration Services for the program commonly*  
25 *known as the “REAL ID hub”, \$16,500,000 is rescinded.*

1        *SEC. 2634. From the unobligated balances of prior*  
2 *year appropriations made available for “Science and Tech-*  
3 *nology, Research, Development, Acquisition, and Oper-*  
4 *ations”, \$32,000,000 is rescinded.*

5        *SEC. 2635. From the unobligated balances of funds*  
6 *made available in the Department of the Treasury For-*  
7 *feiture Fund established by section 9703 of title 31, United*  
8 *States Code, that was added to such title by section 638*  
9 *of Public Law 102–393, \$22,600,000 is rescinded.*

10        *SEC. 2636. Section 550(b) of the Department of Home-*  
11 *land Security Appropriations Act, 2007 (Public Law 109–*  
12 *295; 6 U.S.C. 121 note), is amended by striking “on October*  
13 *4, 2010” and inserting “on October 4, 2011”.*

14        *SEC. 2637. Section 532(a) of Public Law 109–295*  
15 *(120 Stat. 1384), as amended by section 519 of Public Law*  
16 *111–83 (123 Stat 2171), is amended by striking “2010”*  
17 *and inserting “2011”.*

18        *SEC. 2638. Section 831 of the Homeland Security Act*  
19 *of 2002 (6 U.S.C. 391), as amended by section 531 of Public*  
20 *Law 111–83 (123 Stat 2174), is amended—*

21            *(1) in subsection (a), by striking “Until Sep-*  
22 *tember 30, 2010” and inserting “Until September 30,*  
23 *2011,”; and*

24            *(2) in subsection (d)(1), by striking “September*  
25 *30, 2010,” and inserting “September 30, 2011,”.*



1 \$53,500,000 shall be for satellite operations, and of which  
2 \$4,807,000 shall be for deferred maintenance and capital  
3 improvement projects that exceed \$100,000 in cost.

4       *SEC. 2705. Notwithstanding section 1101, the provi-*  
5 *sions under the heading “Minerals Management Service,*  
6 *Royalty and Offshore Minerals Management” in division*  
7 *A of Public Law 111–88 shall be applied to funds appro-*  
8 *priated by this Act as follows: by substituting*  
9 *“\$271,113,000” for “\$175,217,000”; by substituting*  
10 *“\$113,174,000” for “\$89,374,000”; by substituting*  
11 *“\$154,890,000” for “\$156,730,000” each place it appears;*  
12 *and by substituting “fiscal year 2011” for “fiscal year*  
13 *2010” each place it appears.*

14       *SEC. 2706. Notwithstanding section 1101, the provi-*  
15 *sions under the heading “Bureau of Indian Affairs, Oper-*  
16 *ation of Indian Programs” in division A of Public Law*  
17 *111–88 shall be applied to funds appropriated by this Act*  
18 *as follows: by substituting “\$2,355,965,000” for*  
19 *“\$2,335,965,000”; by substituting “\$200,000,000” for*  
20 *“\$166,000,000” in the matter pertaining to contract sup-*  
21 *port costs; by substituting “\$85,000,000” for “\$74,915,000”*  
22 *in the matter pertaining to welfare assistance payments;*  
23 *by substituting “\$597,449,000” for “\$568,702,000” in the*  
24 *matter pertaining to school operations costs of Bureau-*  
25 *funded schools and other education programs; and by sub-*

1 *stituting “\$53,899,000” for “\$43,373,000” in the matter*  
2 *pertaining to administrative cost grants for school oper-*  
3 *ations.*

4 *SEC. 2707. The matter pertaining to Public Law 109–*  
5 *379 (regarding the Isleta Pueblo settlement) under the head-*  
6 *ing “Bureau of Indian Affairs, Indian Land and Water*  
7 *Claim Settlements and Miscellaneous Payments to Indians”*  
8 *in division A of Public Law 111–88 shall not apply to*  
9 *funds appropriated by this Act.*

10 *SEC. 2708. Notwithstanding section 1101, the level for*  
11 *“Environmental Protection Agency, Environmental Pro-*  
12 *grams and Management” shall be \$2,840,779,000, of which*  
13 *\$455,441,000 shall be for the Geographic Programs specified*  
14 *in the explanatory statement accompanying Public Law*  
15 *111–88, except that the funding level for the Great Lakes*  
16 *Restoration Initiative shall be \$322,000,000.*

17 *SEC. 2709. Notwithstanding section 1101, the level for*  
18 *“Environmental Protection Agency, State and Tribal As-*  
19 *sistance Grants” shall be \$4,813,446,000, of which \$0 shall*  
20 *be for special project grants.*

21 *SEC. 2710. Notwithstanding section 1101, the amounts*  
22 *included under the heading “Administrative Provisions,*  
23 *Environmental Protection Agency” in division A of Public*  
24 *Law 111–88 shall be applied to funds appropriated by this*  
25 *Act by substituting “\$322,000,000” for “\$475,000,000”.*

1        *SEC. 2711. Of the unobligated balances available for*  
2 *“Environmental Protection Agency, State and Tribal As-*  
3 *sistance Grants”, \$10,000,000 is rescinded: Provided, That*  
4 *no amounts may be rescinded from amounts that were des-*  
5 *ignated by Congress as an emergency requirement pursuant*  
6 *to a concurrent resolution on the budget or the Balanced*  
7 *Budget and Emergency Deficit Control Act of 1985, as*  
8 *amended.*

9        *SEC. 2712. Notwithstanding section 1101, the level for*  
10 *“Forest Service, National Forest System” shall be*  
11 *\$1,581,339,000, of which \$30,000,000 shall be deposited in*  
12 *the Collaborative Forest Landscape Restoration Fund for*  
13 *ecological restoration treatments as authorized by 16 U.S.C.*  
14 *7303(f).*

15        *SEC. 2713. Notwithstanding section 1101, the level for*  
16 *“Indian Health Service, Indian Health Services” shall be*  
17 *\$3,797,227,000, and the provisions under such heading*  
18 *shall be applied to funds appropriated by this Act by sub-*  
19 *stituting “\$816,759,000” for “\$779,347,000” in the matter*  
20 *pertaining to contract medical care; by substituting*  
21 *“\$404,332,000” for “\$398,490,000” in the matter per-*  
22 *taining to contract support costs; and in section 409 of divi-*  
23 *sion A of Public Law 111–88 by substituting “111–8, and*  
24 *111–88” for “and 111–8” and by substituting “2010” for*  
25 *“2009”.*

1        *SEC. 2714. The matter pertaining to methyl isocyanate*  
2 *in the last proviso under the heading “Chemical Safety and*  
3 *Hazard Investigation Board, Salaries and Expenses” in di-*  
4 *vision A of Public Law 111–88 shall not apply to funds*  
5 *appropriated by this Act.*

6        *SEC. 2715. Notwithstanding section 1101, the provi-*  
7 *sions under the heading “National Gallery of Art, Repair,*  
8 *Restoration and Renovation of Buildings” in division A*  
9 *of Public Law 111–88 shall be applied to funds appro-*  
10 *priated by this Act by substituting “\$42,250,000” for*  
11 *“\$40,000,000” in the matter pertaining to repair of the Na-*  
12 *tional Gallery’s East Building façade.*

13        *SEC. 2716. The first proviso under the heading “John*  
14 *F. Kennedy Center for the Performing Arts, Operations and*  
15 *Maintenance” in division A of Public Law 111–88 is*  
16 *amended by striking “until expended” and all that follows*  
17 *and inserting “until September 30, 2011.”.*

18        *SEC. 2717. The contract authority provided for fiscal*  
19 *year 2011 for “National Park Service, Land and Water*  
20 *Conservation Fund” by 16 U.S.C. 460l–10a is rescinded.*

21        *SEC. 2718. (a) Notwithstanding any other provision*  
22 *of this Act, the Secretary of the Interior may enter into*  
23 *multiyear cooperative agreements with nonprofit organiza-*  
24 *tions and other appropriate entities, and may enter into*  
25 *multiyear contracts in accordance with the provisions of*



1 *section 304B of the Federal Property and Administrative*  
2 *Services Act of 1949 (41 U.S.C. 254c) (except that the 5*  
3 *year term restriction in subsection (d) shall not apply), for*  
4 *the long-term care and maintenance of excess wild free-*  
5 *roaming horses and burros by such organizations or entities*  
6 *on private land. Such cooperative agreements and contracts*  
7 *may not exceed 10 years, subject to renewal at the discretion*  
8 *of the Secretary.*

9 *(b) During fiscal year 2011 and subsequent fiscal*  
10 *years, in carrying out work involving cooperation with any*  
11 *State or political subdivision thereof, the Bureau of Land*  
12 *Management may record obligations against accounts re-*  
13 *ceivable from any such entities.*

14 *SEC. 2719. During fiscal year 2011, the Secretary of*  
15 *the Interior, in order to implement a reorganization of the*  
16 *Bureau of Ocean Energy Management, Regulation, and*  
17 *Enforcement, may establish accounts, transfer funds among*  
18 *and between the offices and bureaus affected by the reorga-*  
19 *nization, and take any other administrative actions nec-*  
20 *essary in conformance with the Appropriations Committee*  
21 *reprogramming procedures described in the joint explana-*  
22 *tory statement of the managers accompanying Public Law*  
23 *111–88.*

24 *SEC. 2720. Notwithstanding any other provision of*  
25 *this Act, during fiscal year 2011 and subsequent fiscal*

1 *years, the Secretary of Agriculture, acting through the For-*  
2 *est Service, may carry out a program, to be known as the*  
3 *“Legacy Road and Trail Remediation program”, to con-*  
4 *duct urgently needed decommissioning of Forest Service*  
5 *roads, forest road and trail repair and maintenance and*  
6 *associated activities, and removal of fish passage barriers*  
7 *on National Forest System lands, especially in areas where*  
8 *Forest Service roads may be contributing to water quality*  
9 *problems in streams and water bodies supporting threat-*  
10 *ened, endangered, or sensitive species or community water*  
11 *sources.*

12 *SEC. 2721. Notwithstanding section 1101, section 423*  
13 *of Public Law 111–88 (123 Stat. 2961), concerning the dis-*  
14 *tribution of geothermal energy receipts, shall have no force*  
15 *or effect and the provisions of section 3003(a) of Public Law*  
16 *111–212 (124 Stat. 2338) shall apply for fiscal year 2011.*

17 *SEC. 2722. The authority provided by section 337 of*  
18 *the Department of the Interior and Related Agencies Appro-*  
19 *priations Act, 2005 (Public Law 108–447; 118 Stat. 3102),*  
20 *as amended, shall remain in effect until the date specified*  
21 *in section 1106 of this Act.*

22 *SEC. 2723. Section 433 of division A of Public Law*  
23 *111–88 (regarding Forest Service cabin user fees) is amend-*  
24 *ed by striking “2010” and “2009” and inserting “2011”*  
25 *and “2010”, respectively.*

1        *SEC. 2724. Section 11(c)(1) of the Outer Continental*  
2 *Shelf Lands Act (43 U.S.C. 1340(c)(1)) is amended by*  
3 *striking “within thirty days” and inserting “within ninety*  
4 *days”.*

5        *SEC. 2725. Notwithstanding section 1101, the level for*  
6 *section 415 of division A of Public Law 111–88 shall be*  
7 *\$0.*

8        *SEC. 2726. Within 30 days after the date of the enact-*  
9 *ment of this Act, each of the following departments and*  
10 *agencies shall submit to the House and Senate Committees*  
11 *on Appropriations a spending, expenditure, or operating*  
12 *plan for fiscal year 2011 at a level of detail below the ac-*  
13 *count level:*

14            (1) *Department of Agriculture, Forest Service.*

15            (2) *Department of the Interior.*

16            (3) *Environmental Protection Agency.*

17            (4) *Indian Health Service.*

18            (5) *Smithsonian Institution.*

19            (6) *National Gallery of Art.*

20            (7) *National Endowment for the Arts.*

21            (8) *National Endowment for the Humanities.*

22        *SEC. 2727. (a) MODIFICATION.—*

23            (1) *IN GENERAL.—The first sentence of section*  
24 *19 of the Act of June 18, 1934 (commonly known as*

1       the “Indian Reorganization Act”) (25 U.S.C. 479), is  
2       amended—

3               (A) by striking “The term” and inserting  
4               “Effective beginning on June 18, 1934, the  
5               term”; and

6               (B) by striking “any recognized Indian  
7               tribe now under Federal jurisdiction” and in-  
8               serting “any federally recognized Indian tribe”.

9               (2) *EFFECTIVE DATE.*—The amendments made  
10       by paragraph (1) shall take effect as if included in  
11       the Act of June 18, 1934 (commonly known as the  
12       “Indian Reorganization Act”) (25 U.S.C. 479), on the  
13       date of enactment of that Act.

14       (b) *RATIFICATION AND CONFIRMATION OF ACTIONS.*—  
15       Any action taken by the Secretary of the Interior pursuant  
16       to the Act of June 18, 1934 (commonly known as the “In-  
17       dian Reorganization Act”) (25 U.S.C. 461 et seq.) for any  
18       Indian tribe that was federally recognized on the date of  
19       the action is ratified and confirmed, to the extent such ac-  
20       tion is subjected to challenge based on whether the Indian  
21       tribe was federally recognized or under Federal jurisdiction  
22       on June 18, 1934, ratified and confirmed as fully to all  
23       intents and purposes as if the action had, by prior act of  
24       Congress, been specifically authorized and directed.

25       (c) *EFFECT ON OTHER LAWS.*—

1           (1) *IN GENERAL.*—*Nothing in this section or the*  
2           *amendments made by this section affects—*

3                   (A) *the application or effect of any Federal*  
4           *law other than the Act of June 18, 1934 (25*  
5           *U.S.C. 461 et seq.) (as amended by subsection*  
6           *(a)); or*

7                   (B) *any limitation on the authority of the*  
8           *Secretary of the Interior under any Federal law*  
9           *or regulation other than the Act of June 18, 1934*  
10          *(25 U.S.C. 461 et seq.) (as so amended).*

11           (2) *REFERENCES IN OTHER LAWS.*—*An express*  
12          *reference to the Act of June 18, 1934 (25 U.S.C. 461*  
13          *et seq.) contained in any other Federal law shall be*  
14          *considered to be a reference to that Act as amended*  
15          *by subsection (a).*

16          **CHAPTER 8—LABOR, HEALTH AND HUMAN**

17          **SERVICES, EDUCATION, AND RELATED AGENCIES**

18          **SEC. 2801.** (a) *Notwithstanding section 1101, the level*  
19          *for “Department of Labor, Employment and Training Ad-*  
20          *ministration, Training and Employment Services” shall be*  
21          *\$1,906,530,000 plus reimbursements, of which: (1)*  
22          *\$879,961,000 shall be available for obligation for the period*  
23          *July 1, 2011, through June 30, 2012, of which \$68,450,000*  
24          *shall be available for pilots, demonstrations, and research*  
25          *activities; (2) \$1,026,569,000 shall be available for obliga-*

1 tion for the period April 1, 2011, through June 30, 2012,  
2 for youth programs (including YouthBuild); and (3) no  
3 funds shall be available for the Career Pathways Innovation  
4 Fund.

5 (b) Notwithstanding section 1101, the level for “De-  
6 partment of Labor, Employment and Training Adminis-  
7 tration, Community Service Employment for Older Ameri-  
8 cans” shall be \$620,425,000, to remain available through  
9 June 30, 2012, and the first and second provisos under such  
10 heading in division D of Public Law 111–117 shall not  
11 apply to funds appropriated by this Act.

12 (c) Notwithstanding section 1101, the level which may  
13 be expended from the Employment Security Administration  
14 Account in the Unemployment Trust Fund for administra-  
15 tive expenses of “Department of Labor, Employment and  
16 Training Administration, State Unemployment Insurance  
17 and Employment Service Operations” shall be  
18 \$4,154,490,000 (which includes all amounts available to  
19 conduct in-person reemployment and eligibility assessments  
20 and unemployment insurance improper payment reviews),  
21 of which \$3,375,645,000 shall be available for unemploy-  
22 ment compensation State operations, \$50,519,000 shall be  
23 available for Federal administration of foreign labor certifi-  
24 cations, and \$15,129,000 shall be available for grants to  
25 States for the administration of such activities. For pur-

1 *poses of this section, the first proviso under such heading*  
2 *in division D of Public Law 111–117 shall be applied by*  
3 *substituting “2011” and “6,051,000” for “2010” and*  
4 *“5,059,000”, respectively.*

5 *SEC. 2802. Funds appropriated by section 1101 of this*  
6 *Act to the Department of Labor’s Employment and Train-*  
7 *ing Administration for technical assistance services to*  
8 *grantees may be transferred to “Department of Labor, Em-*  
9 *ployment and Training Administration, Program Admin-*  
10 *istration” if it is determined that those services will be more*  
11 *efficiently performed by Federal staff.*

12 *SEC. 2803. Notwithstanding section 1101, the level for*  
13 *“Department of Labor, Employee Benefits Security Admin-*  
14 *istration, Salaries and Expenses” shall be \$164,861,000.*

15 *SEC. 2804. Notwithstanding section 1101, the level for*  
16 *“Department of Labor, Mine Safety and Health Adminis-*  
17 *tration, Salaries and Expenses” shall be \$381,493,000, of*  
18 *which up to \$15,000,000 shall be available to the Secretary*  
19 *of Labor to be transferred to “Departmental Management,*  
20 *Salaries and Expenses” for activities related to the Depart-*  
21 *ment of Labor’s caseload before the Federal Mine Safety and*  
22 *Health Review Commission and the amounts included*  
23 *under the heading “Department of Labor, Mine Safety and*  
24 *Health Administration, Salaries and Expenses” in division*  
25 *D of Public Law 111–117 shall be applied to funds appro-*

1 *priated in this Act during fiscal year 2011 by substituting*  
2 *“\$1,350,000” for “\$1,000,000”.*

3 *SEC. 2805. Funds appropriated by section 1101 of this*  
4 *Act for “Department of Labor, Bureau of Labor Statistics,*  
5 *Salaries and Expenses” may be obligated and expended to*  
6 *implement an alternative approach to the Locality Pay*  
7 *Survey component of the National Compensation Survey.*

8 *SEC. 2806. Notwithstanding section 1101, the level for*  
9 *“Department of Labor, Departmental Management, Office*  
10 *of Job Corps” shall be \$1,027,205,000 (which may be ad-*  
11 *ministered within the Employment and Training Adminis-*  
12 *tration pursuant to section 108 of division D of Public Law*  
13 *111–117), of which \$993,015,000 shall be available to meet*  
14 *the operational needs of Job Corps centers. Of appropria-*  
15 *tions made available in this Act for construction, rehabili-*  
16 *tation, and acquisition of Job Corps centers, the Secretary*  
17 *of Labor may transfer up to 25 percent to meet the oper-*  
18 *ational needs of Job Corps centers.*

19 *SEC. 2807. (a) Of the unobligated balances available*  
20 *in “Department of Labor, Working Capital Fund”,*  
21 *\$3,900,000 is permanently rescinded, to be derived solely*  
22 *from amounts available in the Investment in Reinvention*  
23 *Fund (other than amounts that were designated by the Con-*  
24 *gress as an emergency requirement pursuant to a concur-*



1 *rent resolution on the budget or the Balanced Budget and*  
2 *Emergency Deficit Control Act of 1985).*

3 *(b) Public Law 85–67 is amended by striking the third*  
4 *proviso under the heading “Working Capital Fund” (as*  
5 *added by Public Law 104–134) and relating to establish-*  
6 *ment of an Investment in Reinvention Fund.*

7 *SEC. 2808. Notwithstanding section 102 of division D*  
8 *of Public Law 111–117, not to exceed 1 percent of any dis-*  
9 *cretionary funds (pursuant to the Balanced Budget and*  
10 *Emergency Deficit Control Act of 1985) that are appro-*  
11 *riated for the current fiscal year for the Department of*  
12 *Labor in this Act may be transferred among appropri-*  
13 *ations, but no such appropriation to which such funds are*  
14 *transferred may be increased by more than 3 percent by*  
15 *any such transfer: Provided, That the transfer authority*  
16 *granted by this section shall be available only to meet unan-*  
17 *ticipated needs and shall not be used to create any new*  
18 *program or to fund any project or activity for which no*  
19 *funds are provided in this Act: Provided further, That the*  
20 *Committees on Appropriations are notified at least 15 days*  
21 *in advance of any transfer.*

22 *SEC. 2809. (a) Notwithstanding section 1101, the level*  
23 *for “Department of Health and Human Services, Health*  
24 *Resources and Services Administration, Health Resources*  
25 *and Services” shall be \$7,270,520,000, of which: (1) not*

1 more than \$100,000,000 shall be available until expended  
2 for carrying out the provisions of Public Law 104–73 and  
3 for expenses incurred by the Department of Health and  
4 Human Services pertaining to administrative claims made  
5 under such law; (2) not less than \$1,932,865,000 shall re-  
6 main available through September 30, 2013 for parts A and  
7 B of title XXVI of the Public Health Service Act (hereafter  
8 in this chapter, “PHS Act”), of which not less than  
9 \$835,000,000 shall be for State AIDS Drug Assistance Pro-  
10 grams under section 2616 of such Act; (3) in addition to  
11 amounts designated above to carry out parts A and B of  
12 title XXVI of the PHS Act, \$60,000,000 shall be available  
13 through September 30, 2013, for allocation to State AIDS  
14 Drug Assistance Programs under section 2616 or section  
15 311(c) of the PHS Act; and (4) not less than \$612,954,000  
16 shall be available for health professions programs under ti-  
17 tles VII and VIII and section 340G of the PHS Act.

18 (b) The eighteenth and nineteenth provisos under the  
19 heading “Department of Health and Human Services,  
20 Health Resources and Services Administration, Health Re-  
21 sources and Services” in division D of Public Law 111–  
22 117 shall not apply to funds appropriated by this Act.

23 (c) Sections 340G–1(d)(1) and (d)(2), 747(c)(2), and  
24 751(j)(2) of the PHS Act, and the proportional funding  
25 amounts in paragraphs (1) through (4) of section 756(e)

1 *of such Act shall not apply to funds made available in this*  
2 *Act for “Department of Health and Human Services,*  
3 *Health Resources and Services Administration, Health Re-*  
4 *sources and Services”.*

5 *(d) For any program operating under section 751 of*  
6 *the PHS Act on or before January 1, 2009, the Secretary*  
7 *of Health and Human Services may waive any of the re-*  
8 *quirements contained in sections 751(d)(2)(A) and*  
9 *751(d)(2)(B) of such Act.*

10 *SEC. 2810. (a) Notwithstanding section 1101, the level*  
11 *for the first paragraph under the heading “Department of*  
12 *Health and Human Services; Centers for Disease Control*  
13 *and Prevention; Disease Control, Research, and Training”*  
14 *shall be \$6,251,352,000, of which: (1) \$150,137,000 shall be*  
15 *available until expended to provide screening and treatment*  
16 *for first response emergency services personnel, residents,*  
17 *students, and others related to the September 11, 2001 ter-*  
18 *rorist attacks on the World Trade Center; (2) \$12,000,000*  
19 *shall remain available until expended for acquisition of real*  
20 *property, equipment, construction, and renovation of facili-*  
21 *ties, including necessary repairs and improvements to lab-*  
22 *oratories leased or operated by the Centers for Disease Con-*  
23 *trol and Prevention; and (3) \$527,234,000 shall remain*  
24 *available until expended for the Strategic National Stock-*  
25 *pile under section 319F–2 of the PHS Act.*

1       (b) Paragraphs (1) through (3) of section 2821(b) of  
2 the PHS Act shall not apply to funds made available in  
3 this Act.

4       (c) Notwithstanding section 1101, funds appropriated  
5 for “Department of Health and Human Services; Centers  
6 for Disease Control and Prevention; Disease Control, Re-  
7 search, and Training” shall also be available to carry out  
8 title II of the Immigration and Nationality Act and sec-  
9 tions 4001, 4004, 4201, and 4301 of the Patient Protection  
10 and Affordable Care Act (Public Law 111–148).

11       SEC. 2811. Notwithstanding section 1101, the level for  
12 “Department of Health and Human Services, National In-  
13 stitutes of Health, National Institute of Allergy and Infec-  
14 tious Diseases” shall be \$4,818,275,000, and the require-  
15 ment under such heading in division D of Public Law 111–  
16 117 for a transfer from Biodefense Countermeasures funds  
17 shall not apply.

18       SEC. 2812. Of the amount provided by section 1101  
19 for “Department of Health and Human Services, National  
20 Institutes of Health, Office of the Director” (including  
21 amounts available for the Common Fund and the Director’s  
22 Discretionary Fund), up to \$25,000,000 shall be available  
23 to implement the Cures Acceleration Network authorized by  
24 section 402C of the PHS Act.

1        *SEC. 2813. (a) Notwithstanding section 1101, the level*  
2 *for “Department of Health and Human Services, Substance*  
3 *Abuse and Mental Health Services Administration, Sub-*  
4 *stance Abuse and Mental Health Services” shall be*  
5 *\$3,417,106,000.*

6        *(b) The second proviso under the heading “Department*  
7 *of Health and Human Services, Substance Abuse and Men-*  
8 *tal Health Services Administration, Substance Abuse and*  
9 *Mental Health Services” in division D of Public Law 111–*  
10 *117 shall not apply to funds appropriated by this Act.*

11        *SEC. 2814. Notwithstanding section 1101, the level for*  
12 *amounts transferred from the Federal Hospital Insurance*  
13 *and Supplementary Medical Insurance Trust Funds for*  
14 *“Department of Health and Human Services, Centers for*  
15 *Medicare and Medicaid Services, Program Management”*  
16 *shall not exceed \$3,623,113,000, of which \$9,120,000 shall*  
17 *remain available through September 30, 2012, for Medicare*  
18 *contracting reform activities.*

19        *SEC. 2815. Notwithstanding section 1101, the level for*  
20 *“Department of Health and Human Services, Centers for*  
21 *Medicare and Medicaid Services, Health Care Fraud and*  
22 *Abuse Control” shall be \$461,000,000 which shall remain*  
23 *available through September 30, 2012, of which: (1)*  
24 *\$274,640,000 shall be for the Medicare Integrity Program*  
25 *at the Centers for Medicare & Medicaid Services, including*

1 *administrative costs, to conduct oversight activities for*  
2 *Medicare Advantage and the Medicare Prescription Drug*  
3 *Program authorized in title XVIII of the Social Security*  
4 *Act and for activities listed in section 1893 of such Act;*  
5 *(2) \$78,057,000 shall be for the Department of Health and*  
6 *Human Services Office of Inspector General to carry out*  
7 *fraud and abuse activities authorized by section 1817(k)(3)*  
8 *of such Act; (3) \$34,400,000 shall be for the Medicaid and*  
9 *Children’s Health Insurance Program (“CHIP”) program*  
10 *integrity activities; and (4) \$73,903,000 shall be for the De-*  
11 *partment of Justice to carry out fraud and abuse activities*  
12 *authorized by section 1817(k)(3) of such Act.*

13       *SEC. 2816. Notwithstanding section 1101, the level for*  
14 *“Department of Health and Human Services, Administra-*  
15 *tion for Children and Families, Payments to States for the*  
16 *Child Care and Development Block Grant” shall be*  
17 *\$2,501,081,000.*

18       *SEC. 2817. (a) Notwithstanding section 1101, the level*  
19 *for “Department of Health and Human Services, Adminis-*  
20 *tration for Children and Families, Children and Families*  
21 *Services Programs” shall be \$9,643,532,000, of which—*

22               *(1) \$44,500,000 shall be for grants to States for*  
23               *adoption incentive payments as authorized by section*  
24               *473A of the Social Security Act;*

1           (2) \$7,548,783,000 shall be for making payments  
2           under the Head Start Act; and, for purposes of allo-  
3           cating such funds under the Head Start Act, the term  
4           “base grant” as used in subsection (a)(7)(A) of section  
5           640 of such Act with respect to funding provided to  
6           a Head Start agency (including each Early Head  
7           Start agency) for fiscal year 2010 shall be deemed to  
8           include an amount obtained by multiplying 50 per-  
9           cent of the funds appropriated under “Department of  
10          Health and Human Services, Administration for  
11          Children and Families, Children and Family Services  
12          Programs” in Public Law 111–5 and provided to  
13          such agency for carrying out expansion of Head Start  
14          programs, as that phrase is used in subsection  
15          (a)(4)(D) of such section 640, and provided to such  
16          agency as the ongoing funding level for operations in  
17          the 12 month budget period beginning in fiscal year  
18          2010 (“expansion grants”), by a fraction whose nu-  
19          merator is the number of children actually enrolled in  
20          that agency’s Head Start program in slots funded by  
21          such expansion grants as of October 30, 2010, and  
22          whose denominator is the client population number  
23          included in the obligating documents for such expan-  
24          sion grants for that agency’s Head Start program for  
25          such budget period; and

1           (3) \$766,000,000 shall be for making payments  
2           under the Community Service Block Grant (“CSBG”)  
3           Act and of which \$56,000,000 shall be for section  
4           680(a)(2) of the CSBG Act.

5           (b) Notwithstanding section 611(d)(1) of title VI of di-  
6           vision G of Public Law 110–161, the National Commission  
7           on Children and Disasters shall terminate on October 1,  
8           2011.

9           SEC. 2818. (a) Notwithstanding section 1101, funds  
10           appropriated for “Department of Health and Human Serv-  
11           ices, Administration on Aging, Aging Services Programs”  
12           shall also be available to carry out subtitle B of title XX  
13           of the Social Security Act and for necessary administrative  
14           expenses to carry out title XVII of the PHS Act.

15           (b) Amounts otherwise available in this Act to carry  
16           out activities relating to Aging and Disability Resource  
17           Centers, under subsections (a)(20)(B)(iii) and (b)(8) of sec-  
18           tion 202 of the Older Americans Act of 1965, shall be re-  
19           duced by any amounts made available for fiscal year 2011  
20           for such purposes under section 2405 of the Patient Protec-  
21           tion and Affordable Care Act.

22           SEC. 2819. The amounts included under the heading  
23           “Department of Health and Human Services, Office of the  
24           Secretary, General Departmental Management” in division  
25           D of Public Law 111–117 shall be applied to funds appro-



1 *priated by this Act by substituting “\$538,318,000” for*  
2 *“\$493,377,000” and such amounts shall also be available*  
3 *to carry out title XXVII of the PHS Act, the second proviso*  
4 *under such heading shall not apply, and none of the funds*  
5 *made available in this Act shall be for carrying out activi-*  
6 *ties specified under section 2003(b)(2) or (3) of the PHS*  
7 *Act.*

8       *SEC. 2820. Notwithstanding section 1101, the level for*  
9 *“Department of Health and Human Services, Office of the*  
10 *Secretary, Office of Medicare Hearings and Appeals” shall*  
11 *be \$77,798,000.*

12       *SEC. 2821. Notwithstanding section 1101, the level for*  
13 *“Department of Health and Human Services, Office of the*  
14 *Secretary, Office of Inspector General” shall be \$60,754,000.*

15       *SEC. 2822. Notwithstanding section 1101, the level for*  
16 *“Department of Health and Human Services, Office of the*  
17 *Secretary, Office for Civil Rights” (excluding amounts*  
18 *transferred from trust funds) shall be \$41,068,000.*

19       *SEC. 2823. (a) Notwithstanding section 1101, the level*  
20 *for “Department of Health and Human Services, Office of*  
21 *the Secretary, Public Health and Social Services and Emer-*  
22 *gency Fund” shall be \$1,134,303,000, of which: (1)*  
23 *\$403,194,000 shall remain available through September 30,*  
24 *2012, to support advanced research and development pursu-*  
25 *ant to section 319L of the PHS Act and which shall be*

1 *derived by transfer from funds transferred to “Department*  
2 *of Health and Human Services, Office of the Secretary,*  
3 *Public Health and Social Services Emergency Fund” by*  
4 *Public Law 111–117 in the fourth paragraph under such*  
5 *heading; (2) \$78,167,000 shall be for expenses necessary to*  
6 *prepare for and respond to an influenza pandemic, none*  
7 *of which shall be available past September 30, 2011; and*  
8 *(3) \$35,000,000 shall be for expenses necessary for fit-out*  
9 *and other costs related to a competitive lease procurement*  
10 *to renovate or replace the existing headquarters building for*  
11 *Public Health Service agencies and other components of the*  
12 *Department of Health and Human Services.*

13 *(b) Of the amounts provided under the heading “De-*  
14 *partment of Health and Human Services, Office of the Sec-*  
15 *retary, Public Health and Social Services Emergency*  
16 *Fund” in Public Laws 111–8 and 111–117 and available*  
17 *for expenses necessary to prepare for and respond to an in-*  
18 *fluenza pandemic, \$170,000,000 may also be used: (1) to*  
19 *plan, conduct, and support research to advance regulatory*  
20 *science to improve the ability to determine safety, effective-*  
21 *ness, quality, and performance of medical countermeasure*  
22 *products against chemical, biological, radiological, and nu-*  
23 *clear agents including influenza virus; and (2) to analyze,*  
24 *conduct, and improve regulatory review and compliance*  
25 *processes for such products.*

1        *SEC. 2824. (a) Not later than 45 days after enactment*  
2 *of this Act, the Secretary of Health and Human Services*  
3 *shall transfer from “Prevention and Public Health*  
4 *Fund”—*

5            (1) \$20,000,000 to “*Health Resources and Serv-*  
6 *ices” for an additional amount to carry out sections*  
7 *766, 767, 768, and 776 of the PHS Act;*

8            (2) \$630,000,000 to “*Disease Control, Research,*  
9 *and Training” for an additional amount to carry out*  
10 *sections 306, 317(k)(2)(A), 317G, 399U, 1706, and*  
11 *2821 of the PHS Act; sections 4001, 4004, 4201, and*  
12 *4301 of the Patient Protection and Affordable Care*  
13 *Act; Public Law 99–252; Public Law 98–474; the im-*  
14 *munization program under authority of section*  
15 *317(a), (j), (k)(1), (l), and (m) of the PHS Act; the*  
16 *Environmental Public Health Tracking Program*  
17 *under authority of section 301 of the PHS Act; the*  
18 *Racial and Ethnic Approaches to Community Health*  
19 *program under authority of section 1703 of the PHS*  
20 *Act; the activities of the Office of Smoking and Health*  
21 *under authority of sections 317 and 1701 of the PHS*  
22 *Act; and State grants for chronic disease activities*  
23 *under section 317(k)(2)(B) of the PHS Act;*

24            (3) \$88,000,000 to “*Substance Abuse and Mental*  
25 *Health Services” for an additional amount for suicide*

1        *prevention activities and to carry out sections 505,*  
2        *509, and 520(k) of the PHS Act; and*

3            *(4) \$12,000,000 to “Healthcare Research and*  
4        *Quality” for an additional amount to carry out sec-*  
5        *tions 902(a)(7) and 915(a) of the PHS Act.*

6        *(b) Not later than 60 days after enactment of this Act,*  
7        *the Secretary of Health and Human Services shall submit*  
8        *an operating plan to the Committees on Appropriations de-*  
9        *tailing the amounts allocated to the programs identified in*  
10       *subsection (a).*

11        *SEC. 2825. Notwithstanding section 206 of division D*  
12       *of Public Law 111–117, not to exceed 1 percent of any dis-*  
13       *cretionary funds (pursuant to the Balanced Budget and*  
14       *Emergency Deficit Control Act of 1985) that are appro-*  
15       *priated by this Act for the current fiscal year for agencies*  
16       *of the Department of Health and Human Services for which*  
17       *funds were provided in such division may be transferred*  
18       *among appropriations, but no such appropriation to which*  
19       *such funds are transferred may be increased by more than*  
20       *3 percent by any such transfer: Provided, That the transfer*  
21       *authority granted by this section shall be available only to*  
22       *meet unanticipated needs and shall not be used to create*  
23       *any new program or to fund any project or activity for*  
24       *which no funds are provided in this Act: Provided further,*

1 *That the Committees on Appropriations are notified at least*  
2 *15 days in advance of any transfer.*

3 *SEC. 2826. Hereafter, no funds appropriated in this*  
4 *or any previous or subsequent Act shall be subject to the*  
5 *allocation requirements of section 1707A(e) of the PHS Act.*

6 *SEC. 2827. Hereafter, no funds appropriated in this*  
7 *or any previous or subsequent Act shall be available for*  
8 *transfer under section 274 of the PHS Act.*

9 *SEC. 2828. Federal administrative costs for activities*  
10 *authorized subsequent to enactment of division D of Public*  
11 *Law 111–117 may be funded from the relevant appropria-*  
12 *tions provided in this Act for administrative costs.*

13 *SEC. 2829. Notwithstanding section 1101, the level for*  
14 *“Department of Education, School Improvement Pro-*  
15 *grams” shall be \$3,540,003,000, of which \$3,358,993,000*  
16 *shall become available on July 1, 2011, and remain avail-*  
17 *able through September 30, 2012, and for purposes of this*  
18 *section, up to \$11,500,000 of the funds available for the For-*  
19 *ign Language Assistance Program shall be available for*  
20 *activities described in the twelfth proviso under such head-*  
21 *ing in division D of Public Law 111–117.*

22 *SEC. 2830. (a) Notwithstanding section 1101, the level*  
23 *for “Department of Education, Innovation and Improve-*  
24 *ment” shall be \$1,870,123,000, of which \$602,628,000 shall*  
25 *be available to carry out part D of title V of the Elementary*

1 *and Secondary Education Act of 1965, including up to*  
2 *\$25,000,000 of such funds to remain available through Sep-*  
3 *tember 30, 2012, and of which not more than \$550,000,000*  
4 *may be used to make awards to States under section 14006*  
5 *of division A of Public Law 111–5 in accordance with the*  
6 *applicable requirements of that section.*

7       *(b) The seventeenth and eighteenth provisos under the*  
8 *heading “Department of Education, Innovation and Im-*  
9 *provement” in division D of Public Law 111–117 shall not*  
10 *apply to funds appropriated by this Act.*

11       *SEC. 2831. Notwithstanding section 1101, the level for*  
12 *“Department of Education, Safe Schools and Citizenship*  
13 *Education” shall be \$384,841,000, of which: (1) funds pro-*  
14 *vided to carry out subpart 3 of part C of title II of the*  
15 *Elementary and Secondary Education Act of 1965*  
16 *(“ESEA”) shall be available to the Secretary of Education*  
17 *for competitive grants to nonprofit organizations that have*  
18 *demonstrated effectiveness in the development and imple-*  
19 *mentation of civic learning programs, with priority for*  
20 *those programs that demonstrate innovation, scalability,*  
21 *accountability, and a focus on underserved populations;*  
22 *and (2) no funds shall be available for activities authorized*  
23 *under subpart 3 of part D of title V of the ESEA.*

1        *SEC. 2832. Notwithstanding section 1101, the level for*  
2 *“Department of Education, Rehabilitation Services and*  
3 *Disability Research” shall be \$3,501,766,000.*

4        *SEC. 2833. Within the funds provided by section 1101*  
5 *for “Department of Education, Special Institutions for Per-*  
6 *sons with Disabilities, National Technical Institute for the*  
7 *Deaf”, amounts designated for construction shall also be*  
8 *available for any other authorized purpose under such head-*  
9 *ing.*

10        *SEC. 2834. Notwithstanding section 1101, the level for*  
11 *“Department of Education; Career, Technical, and Adult*  
12 *Education” shall be \$1,200,447,000, of which*  
13 *\$1,196,047,000 shall become available on July 1, 2011, and*  
14 *shall remain available through September 30, 2012.*

15        *SEC. 2835. (a) Notwithstanding section 1101, the level*  
16 *for “Department of Education, Student Financial Assist-*  
17 *ance” shall be \$24,963,809,000.*

18        *(b) The maximum Pell Grant for which a student shall*  
19 *be eligible during award year 2011–2012 shall be \$4,860.*

20        *(c) Of the funds made available under section*  
21 *401A(e)(1)(E) of the Higher Education Act of 1965,*  
22 *\$597,000,000 is rescinded.*

23        *SEC. 2836. Notwithstanding sections 1101 and 1103,*  
24 *the level for “Department of Education, Student Aid Ad-*

1 *ministration” shall be \$994,000,000, which shall remain*  
2 *available through September 30, 2012.*

3 *SEC. 2837. Notwithstanding section 1101, the level for*  
4 *“Department of Education, Higher Education” shall be*  
5 *\$2,177,915,000.*

6 *SEC. 2838. Of the amount provided by section 1101*  
7 *for “Department of Education, Institute of Education*  
8 *Sciences” and notwithstanding subsections (d) and (e) of*  
9 *section 174 the Education Sciences Reform Act of 2002,*  
10 *\$69,650,000 may be used to continue the contracts for the*  
11 *Regional Educational Laboratories for one additional year.*

12 *SEC. 2839. Notwithstanding section 1101, the level for*  
13 *“Department of Education, Departmental Management,*  
14 *Program Administration” shall be \$465,000,000, of which*  
15 *up to \$17,000,000 shall remain available until expended*  
16 *for relocation of, and renovation of buildings occupied by,*  
17 *Department staff.*

18 *SEC. 2840. Notwithstanding section 1101, the level for*  
19 *“Corporation for National and Community Service, Na-*  
20 *tional Service Trust” shall be \$217,000,000.*

21 *SEC. 2841. Notwithstanding section 1101, the level for*  
22 *“Corporation for Public Broadcasting” for fiscal year 2011*  
23 *shall be \$36,000,000 and shall not be available for fiscal*  
24 *stabilization grants and the public radio interconnection*  
25 *system.*



1        *SEC. 2842. Notwithstanding section 1101, the level for*  
2 *“Federal Mine Safety and Health Review Commission, Sal-*  
3 *aries and Expenses” shall be \$15,706,000.*

4        *SEC. 2843. Notwithstanding section 1101, the level for*  
5 *“Institute of Museum and Library Services, Office of Mu-*  
6 *seum and Library Services: Grants and Administration”*  
7 *shall be \$265,869,000.*

8        *SEC. 2844. Notwithstanding section 1101, the level for*  
9 *“Medicare Payment Advisory Commission, Salaries and*  
10 *Expenses” shall be \$12,850,000.*

11        *SEC. 2845. Notwithstanding section 1101, the level for*  
12 *“Railroad Retirement Board, Dual Benefits Payments Ac-*  
13 *count” shall be \$57,000,000.*

14        *SEC. 2846. (a) Notwithstanding section 1101, the level*  
15 *for “Social Security Administration, Payments to Social*  
16 *Security Trust Funds” shall be \$21,404,000, and in addi-*  
17 *tion may be used to carry out section 217(g) of the Social*  
18 *Security Act.*

19        *(b) Notwithstanding section 1101, the level for the first*  
20 *paragraph under the heading “Social Security Administra-*  
21 *tion, Limitation on Administrative Expenses” shall be*  
22 *\$11,240,500,000.*

23        *(c) Notwithstanding section 1101, the level for the first*  
24 *paragraph under the heading “Social Security Administra-*  
25 *tion, Supplemental Security Income Program” shall be*

1 \$40,320,200,000, of which \$3,587,200,000 shall be for ad-  
2 ministrative expenses.

3 (d) Upon enactment of this Act, up to \$325,000,000  
4 of the remaining unobligated balances of funds appro-  
5 priated for “Social Security Administration, Limitation on  
6 Administrative Expenses” for fiscal years 2010 and prior  
7 years (other than funds appropriated in Public Law 111–  
8 5) shall be made part of and merged with other funds in  
9 such account available without fiscal year limitation for in-  
10 vestment in information technology and telecommuni-  
11 cations hardware and software infrastructure, and of such  
12 funds available without fiscal year limitation for invest-  
13 ment in information technology and telecommunications  
14 hardware and software infrastructure \$325,000,000 is re-  
15 scinded.

16 SEC. 2847. Section 6402(f)(3)(C) of the Internal Rev-  
17 enue Code of 1986, as amended by section 801(a)(3)(C) of  
18 the Claims Resolution Act of 2010, is further amended by  
19 striking the word “not”.

## 20 CHAPTER 9—LEGISLATIVE BRANCH

21 SEC. 2901. Notwithstanding section 1101, the level for  
22 each of the following accounts of the Senate shall be as fol-  
23 lows: “Salaries, Officers and Employees”, \$185,982,000;  
24 “Salaries, Officers and Employees, Office of the Sergeant  
25 at Arms and Doorkeeper”, \$77,000,000; “Contingent Ex-

1 *penses of the Senate, Secretary of the Senate*”, \$6,200,000;  
2 *and “Contingent Expenses of the Senate, Sergeant at Arms*  
3 *and Doorkeeper of the Senate”*, \$142,401,000.

4 *SEC. 2902. Section 8 of the Legislative Branch Appro-*  
5 *priations Act, 1990 (31 U.S.C. 1535 note) is amended by*  
6 *striking paragraph (3) and inserting the following: “(3)*  
7 *Agreement under paragraph (1) shall be in accordance with*  
8 *regulations prescribed by the Committee on Rules and Ad-*  
9 *ministration of the Senate.”*.

10 *SEC. 2903. Notwithstanding section 1101, the level for*  
11 *“House of Representatives, Salaries and Expenses” shall be*  
12 *\$1,371,172,000, to be allocated in accordance with an allo-*  
13 *cation plan submitted by the Chief Administrative Officer*  
14 *of the House of Representatives and approved by the Com-*  
15 *mittee on Appropriations of the House of Representatives.*

16 *SEC. 2904. Notwithstanding section 1101, the level for*  
17 *each of the following accounts of the Capitol Police shall*  
18 *be as follows: “Salaries”, \$279,224,000, of which \$1,945,000*  
19 *shall remain available until September 30, 2014; and “Gen-*  
20 *eral Expenses”, \$57,985,000.*

21 *SEC. 2905. (a) Notwithstanding section 1018(d) of the*  
22 *Legislative Branch Appropriations Act, 2003 (2 U.S.C.*  
23 *1907(d)), the use of any funds appropriated to the United*  
24 *States Capitol Police during fiscal year 2003 for transfer*  
25 *relating to the Truck Interdiction Monitoring Program to*

1 *the working capital fund established under section 328 of*  
2 *title 49, United States Code, is ratified.*

3 *(b) Nothing in subsection (a) may be construed to*  
4 *waive sections 1341, 1342, 1349, 1350, or 1351 of title 31,*  
5 *United States Code, or subchapter II of chapter 15 of such*  
6 *title (commonly known as the “Anti-Deficiency Act”).*

7 *SEC. 2906. Notwithstanding section 1101, the level for*  
8 *“Congressional Budget Office, Salaries and Expenses” shall*  
9 *be \$46,905,000.*

10 *SEC. 2907. Notwithstanding section 1101, the level for*  
11 *each of the following accounts of the Architect of the Capitol*  
12 *shall be as follows: “General Administration”,*  
13 *\$109,294,000, of which \$7,499,000 shall remain available*  
14 *until September 30, 2015; “Capitol Building”, \$54,616,000,*  
15 *of which \$27,226,000 shall remain available until Sep-*  
16 *tember 30, 2015; “Capitol Grounds”, \$9,988,000; “Senate*  
17 *Office Buildings”, \$81,112,000, of which \$19,474,000 shall*  
18 *remain available until September 30, 2015; “House Office*  
19 *Buildings”, \$75,619,000, of which \$25,323,000 shall remain*  
20 *available until September 30, 2015; “Capitol Power Plant”,*  
21 *\$109,069,000, of which \$15,100,000 shall remain available*  
22 *until September 30, 2015; “Library Buildings and*  
23 *Grounds”, \$44,396,000, of which \$17,457,000 shall remain*  
24 *available until September 30, 2015; “Capitol Police Build-*  
25 *ings, Grounds and Security”, \$26,266,000, of which*

1 \$6,436,000 shall remain available until September 30,  
2 2015; “Botanic Garden”, \$13,834,000, of which \$1,505,000  
3 shall remain available until September 30, 2015; and “Cap-  
4 itol Visitor Center”, \$22,771,000. In addition, notwith-  
5 standing section 1101, \$40,000,000, to remain available  
6 until expended, shall be available under “Architect of the  
7 Capitol, House Office Buildings” for a payment to the  
8 House Historic Buildings Revitalization Trust Fund.

9       SEC. 2908. (a) Notwithstanding section 1101, the level  
10 for “Government Accountability Office, Salaries and Ex-  
11 penses” shall be \$558,430,000.

12       (b) Notwithstanding section 1101, the amount applica-  
13 ble under the first proviso under the heading “Government  
14 Accountability Office, Salaries and Expenses” in the Legis-  
15 lative Branch Appropriations Act, 2010 (Public Law 111-  
16 68) shall be \$9,400,000, the amount applicable under the  
17 second proviso under such heading shall be \$3,100,000, and  
18 the amount applicable under the third proviso under such  
19 heading shall be \$7,000,000.

20       CHAPTER 10—MILITARY CONSTRUCTION,  
21 VETERANS AFFAIRS, AND RELATED AGENCIES

22       SEC. 3001. Notwithstanding section 1101, the level for  
23 each of the following accounts of the Department of Defense  
24 for projects and activities included in the most recently sub-  
25 mitted future years defense program or that are necessary

1 to support overseas contingency operations shall be as fol-  
2 lows: “Military Construction, Army”, \$4,885,000,000;  
3 “Military Construction, Navy and Marine Corps”,  
4 \$3,517,000,000; “Military Construction, Air Force”,  
5 \$1,592,000,000; “Military Construction, Defense-Wide”,  
6 \$3,095,000,000; “Military Construction, Army National  
7 Guard”, \$874,000,000; “Military Construction, Air Na-  
8 tional Guard”, \$177,000,000; “Military Construction,  
9 Army Reserve”, \$318,000,000; “Military Construction,  
10 Navy Reserve”, \$62,000,000; “Military Construction, Air  
11 Force Reserve”, \$8,000,000; “Family Housing Construc-  
12 tion, Army”, \$92,000,000; “Family Housing Construction,  
13 Navy and Marine Corps”, \$186,000,000; “Family Housing  
14 Construction, Air Force”, \$78,000,000; and “Family Hous-  
15 ing Construction, Defense-Wide”, \$0. Within 45 days of the  
16 enactment of this section, the Department of Defense shall  
17 submit a project-level expenditure plan for fiscal year 2011  
18 for the accounts funded in this section.

19       SEC. 3002. Notwithstanding section 1111, of the total  
20 amount specified in section 3001 for “Military Construc-  
21 tion, Army”, “Military Construction, Air Force”, and  
22 “Military Construction, Defense-Wide”, \$1,257,000,000 for  
23 Overseas Deployments and Other Activities is designated as  
24 an emergency requirement and necessary to meet emergency  
25 needs pursuant to sections 403(a) and 423(b) of S. Con.

1 *Res. 13 (111th Congress), the concurrent resolution on the*  
2 *budget for fiscal year 2010.*

3       *SEC. 3003. Notwithstanding section 1101, the level for*  
4 *each of the following accounts of the Department of Defense*  
5 *for projects and activities authorized by law shall be as fol-*  
6 *lows: “North Atlantic Treaty Organization Security Invest-*  
7 *ment Program”, \$259,000,000; “Homeowners Assistance*  
8 *Fund”, \$17,000,000; “Chemical Demilitarization Construc-*  
9 *tion, Defense-Wide”, \$125,000,000; “Department of Defense*  
10 *Base Closure Account 1990”, \$360,000,000; and “Depart-*  
11 *ment of Defense Base Closure Account 2005”,*  
12 *\$2,354,000,000.*

13       *SEC. 3004. Notwithstanding any other provision of*  
14 *this Act, the following provisions included in title I of divi-*  
15 *sion E of Public Law 111–117 shall not apply to funds*  
16 *appropriated by this Act: the first, second, and last pro-*  
17 *visos, and the set-aside of \$350,000,000, under the heading*  
18 *“Military Construction, Army”; the first and last provisos*  
19 *under the heading “Military Construction, Navy and Ma-*  
20 *rine Corps”; the first, second, and last provisos under the*  
21 *heading “Military Construction, Air Force”; the second,*  
22 *third, fourth, and last provisos under the heading “Military*  
23 *Construction, Defense-Wide”; the first, second, and last pro-*  
24 *visos, and the set-aside of \$30,000,000, under the heading*  
25 *“Military Construction, Army National Guard”; the first,*

1 *second, and last provisos, and the set-aside of \$30,000,000,*  
2 *under the heading “Military Construction, Air National*  
3 *Guard”;* the first, second, and last provisos, and the set-  
4 *aside of \$30,000,000, under the heading “Military Con-*  
5 *struction, Army Reserve”;* the first, second, and last pro-  
6 *visos, the set-aside of \$20,000,000, and the set-aside of*  
7 *\$35,000,000, under the heading “Military Construction,*  
8 *Navy Reserve”;* the first, second, and last provisos, and the  
9 *set-aside of \$55,000,000, under the heading “Military Con-*  
10 *struction, Air Force Reserve”;* the proviso under the heading  
11 *“Family Housing Construction, Army”;* the proviso under  
12 *the heading “Family Housing Construction, Navy and Ma-*  
13 *rine Corps”;* the proviso under the heading *“Family Hous-*  
14 *ing Construction, Air Force”;* the proviso under the heading  
15 *“Family Housing Construction, Defense-Wide”;* and the  
16 *proviso under the heading “Chemical Demilitarization*  
17 *Construction, Defense-Wide”.*

18 *SEC. 3005. Section 129 of division E of Public Law*  
19 *111–117 shall not apply in fiscal year 2011.*

20 *SEC. 3006. Notwithstanding any other provision of*  
21 *this Act, the following provisions included in title IV of di-*  
22 *vision E of Public Law 111–117 shall not apply to funds*  
23 *appropriated by this Act: the proviso under “Military Con-*  
24 *struction, Army”;* and the proviso under *“Military Con-*  
25 *struction, Air Force”.*



1        *SEC. 3007. Notwithstanding any other provision of*  
2 *law, funds made available to the Department of Defense by*  
3 *this chapter may be obligated and expended to carry out*  
4 *planning and design and military construction projects not*  
5 *otherwise authorized by law.*

6        *SEC. 3008. Notwithstanding any other provision of*  
7 *law, funds made available to “North Atlantic Treaty Orga-*  
8 *nization Security Investment Program” by this chapter*  
9 *may be obligated and expended for purposes of section 2806*  
10 *of title 10, United States Code, and sections 2501 and 2502*  
11 *of the National Defense Authorization Act for Fiscal Year*  
12 *2010 (Public Law 111–84).*

13        *SEC. 3009. Notwithstanding section 1101, the level for*  
14 *“Department of Veterans Affairs, Departmental Adminis-*  
15 *tration, General Operating Expenses” shall be*  
16 *\$2,546,276,000, of which not less than \$2,148,776,000 shall*  
17 *be for the Veterans Benefits Administration.*

18        *SEC. 3010. Notwithstanding section 1101, the level for*  
19 *“Department of Veterans Affairs, Departmental Adminis-*  
20 *tration, Information Technology Systems” shall be*  
21 *\$3,162,501,000.*

22        *SEC. 3011. Notwithstanding section 1101, the level for*  
23 *“Department of Veterans Affairs, Departmental Adminis-*  
24 *tration, Construction, Major Projects” shall be*  
25 *\$1,151,036,000. Within 30 days of the enactment of this sec-*

1 *tion, the Department shall submit to the Committees on Ap-*  
2 *propriations of the House of Representatives and the Senate*  
3 *a spending plan for fiscal year 2011 at a level of detail*  
4 *below the account level.*

5 *SEC. 3012. Notwithstanding section 1101, the level for*  
6 *“Department of Veterans Affairs, Departmental Adminis-*  
7 *tration, Construction, Minor Projects” shall be*  
8 *\$467,700,000.*

9 *SEC. 3013. Notwithstanding section 1101, the level for*  
10 *“Department of Veterans Affairs, Departmental Adminis-*  
11 *tration, Grants for Construction of State Extended Care*  
12 *Facilities” shall be \$85,000,000.*

13 *SEC. 3014. Notwithstanding any other provision in*  
14 *this Act, sections 230, 231, and 232 of division E of Public*  
15 *Law 111–117 shall not apply in fiscal year 2011.*

16 *SEC. 3015. Notwithstanding section 1101, the level for*  
17 *“Department of Defense—Civil, Cemeterial Expenses,*  
18 *Army, Salaries and Expenses”, shall be \$50,340,000.*

19 *SEC. 3016. Notwithstanding section 1101, the level for*  
20 *“Armed Forces Retirement Home, Trust Fund”, shall be*  
21 *\$71,200,000, of which \$2,000,000 shall be for renovation of*  
22 *physical plants.*

23 *SEC. 3017. (a) Of the funds appropriated in division*  
24 *E of Public Law 111–117, the following amounts which be-*  
25 *came available on October 1, 2010, are hereby rescinded*

1 *from the following accounts of the Department of Veterans*  
2 *Affairs in the amounts specified: “Medical services”,*  
3 *\$1,015,000,000; “Medical support and compliance”,*  
4 *\$145,000,000; and “Medical facilities”, \$145,000,000.*

5 *(b) An additional amount is appropriated to the fol-*  
6 *lowing accounts of the Department of Veterans Affairs in*  
7 *the amounts specified, to remain available until September*  
8 *30, 2012: “Medical services”, \$1,015,000,000; “Medical sup-*  
9 *port and compliance”, \$145,000,000; and “Medical facili-*  
10 *ties”, \$145,000,000.*

11 *SEC. 3018. Amounts provided to the Department of*  
12 *Veterans Affairs for “Medical services”, “Medical support*  
13 *and compliance”, “Medical facilities”, “Construction,*  
14 *minor projects”, and “Information technology systems” for*  
15 *fiscal year 2011 shall be available, through the date speci-*  
16 *fied by section 1106 of this Act: (1) for transfer to the Joint*  
17 *Department of Defense-Department of Veterans Affairs*  
18 *Medical Facility Demonstration Fund, established by sec-*  
19 *tion 1704 of Public Law 111–84, and (2) for operations*  
20 *of the integrated Captain James A. Lovell Federal Health*  
21 *Care Center, consisting of the North Chicago Veteran Af-*  
22 *airs Medical Center, and Navy Ambulatory Care Center,*  
23 *and supporting facilities designated as a combined Federal*  
24 *medical facility as described by section 706 of Public Law*  
25 *110–417.*



1 *national Organizations*”, \$1,575,430,000; “*International*  
2 *Organizations, Contributions for International Peace-*  
3 *keeping Activities*”, \$2,105,000,000; “*International Com-*  
4 *missions, International Boundary and Water Commission,*  
5 *United States and Mexico, Construction*”, \$26,900,000;  
6 “*International Commissions, International Fisheries Com-*  
7 *missions*”, \$51,000,000; “*Related Agency, Broadcasting*  
8 *Board of Governors, Broadcasting Capital Improvements*”,  
9 \$6,875,000; “*Related Programs, United States Institute of*  
10 *Peace*”, \$44,050,000, *which shall not be used for construc-*  
11 *tion activities*; “*United States Agency for International De-*  
12 *velopment, Funds Appropriated to the President, Civilian*  
13 *Stabilization Initiative*”, \$15,000,000; “*United States*  
14 *Agency for International Development, Funds Appro-*  
15 *riated to the President, Capital Investment Fund*”,  
16 \$173,000,000; “*Bilateral Economic Assistance, Funds Ap-*  
17 *propriated to the President, International Fund for Ire-*  
18 *land*”, \$15,000,000; “*Bilateral Economic Assistance, Funds*  
19 *Appropriated to the President, Democracy Fund*”,  
20 \$115,000,000, *of which \$68,500,000 shall be made available*  
21 *for the Human Rights and Democracy Fund of the Bureau*  
22 *of Democracy, Human Rights and Labor, Department of*  
23 *State, and \$46,500,000 shall be made available for the Of-*  
24 *fice of Democracy and Governance of the Bureau for Democ-*  
25 *racy, Conflict, and Humanitarian Assistance, United*

1 *States Agency for International Development; “Bilateral*  
2 *Economic Assistance, Funds Appropriated to the President,*  
3 *Assistance for Europe, Eurasia and Central Asia”,*  
4 *\$709,000,000; “Bilateral Economic Assistance, Department*  
5 *of the Treasury, Debt Restructuring”, \$56,000,000; “Multi-*  
6 *lateral Assistance, Funds Appropriated to the President,*  
7 *International Development Association”, \$1,235,000,000;*  
8 *“Multilateral Assistance, Funds Appropriated to the Presi-*  
9 *dent, Contribution to the Inter-American Development*  
10 *Bank”, \$21,000,000; “Multilateral Assistance, Funds Ap-*  
11 *propriated to the President, Contribution to the African De-*  
12 *velopment Fund”, \$150,000,000; “International Security*  
13 *Assistance, Department of State, Nonproliferation, Anti-*  
14 *terrorism, Demining and Related Programs”,*  
15 *\$740,000,000; “International Security Assistance, Depart-*  
16 *ment of State, Peacekeeping Operations”, \$305,000,000;*  
17 *“International Security Assistance, Funds Appropriated to*  
18 *the President, International Military Education and*  
19 *Training”, \$107,000,000; “International Security Assist-*  
20 *ance, Funds Appropriated to the President, Pakistan Coun-*  
21 *terinsurgency Capability Fund”, \$700,000,000, which shall*  
22 *remain available until September 30, 2012, and shall be*  
23 *available to the Secretary of State under the terms and con-*  
24 *ditions provided for this Fund in Public Law 111–32 and*  
25 *Public Law 111–212; and “International Security Assist-*

1 *ance, Funds Appropriated to the President, Foreign Mili-*  
2 *tary Financing Program”, \$5,440,000,000, of which not less*  
3 *than \$3,000,000,000 shall be available for grants only for*  
4 *Israel and \$1,300,000,000 shall be available for grants only*  
5 *for Egypt and \$300,000,000 shall be available for assistance*  
6 *for Jordan: Provided, That the dollar amount in the fourth*  
7 *proviso under the heading “International Security Assist-*  
8 *ance, Funds Appropriated to the President, Foreign Mili-*  
9 *tary Financing Program” in division F of Public Law*  
10 *111–117 shall be deemed to be \$789,000,000 for the purpose*  
11 *of applying funds appropriated under such heading by this*  
12 *Act.*

13 *SEC. 3103. Notwithstanding section 1101, the dollar*  
14 *amount in the seventh proviso under the heading “Bilateral*  
15 *Economic Assistance, Funds Appropriated to the President,*  
16 *Economic Support Fund” in division F of Public Law*  
17 *111–117 shall be deemed to be \$200,000,000 for the purpose*  
18 *of applying funds appropriated under such heading by this*  
19 *Act: Provided, That the ninth through the fourteenth pro-*  
20 *visos under the heading “Bilateral Economic Assistance,*  
21 *Funds Appropriated to the President, Economic Support*  
22 *Fund” in division F of Public Law 111–117 shall not apply*  
23 *to assistance for Afghanistan under this Act: Provided fur-*  
24 *ther, That the dollar amount in section 7042(f)(1) in divi-*

1 sion F of Public Law 111–117 shall be deemed to be  
2 \$550,400,000.

3 SEC. 3104. Notwithstanding section 1101, the level for  
4 each of the following accounts shall be \$0: “Administration  
5 of Foreign Affairs, Buying Power Maintenance Account”  
6 and “Multilateral Assistance, Funds Appropriated to the  
7 President, Contribution to the Asian Development Fund”.

8 SEC. 3105. (a) In addition to amounts otherwise made  
9 available in this Act, \$12,000,000 is appropriated for “Bi-  
10 lateral Economic Assistance, Funds Appropriated to the  
11 President, Economic Support Fund” for activities specified  
12 in section 7071(j) of division F of Public Law 111–117.

13 (b) For purposes of the amount made available by this  
14 Act for “Export-Import Bank of the United States, Admin-  
15 istrative Expenses”, project specific transaction costs, in-  
16 cluding direct and indirect costs incurred in claims settle-  
17 ments, and other costs for systems infrastructure directly  
18 supporting transactions, shall not be considered adminis-  
19 trative expenses.

20 (c) Of the unobligated balances available from funds  
21 appropriated under the heading “Export and Investment  
22 Assistance, Export-Import Bank of the United States, Sub-  
23 sidy Appropriation” in the Department of State, Foreign  
24 Operations, and Related Programs Appropriations Act,  
25 2009 (division H, Public Law 111–8) and under such head-



1 *ing in prior Acts making appropriations for the Depart-*  
2 *ment of State, foreign operations, and related programs,*  
3 *\$160,000,000 is rescinded.*

4       *SEC. 3106. (a) Notwithstanding any other provision*  
5 *of this Act, the dollar amounts under paragraphs (1)*  
6 *through (4) under the heading “Administration of Foreign*  
7 *Affairs, Diplomatic and Consular Programs” in division*  
8 *F of Public Law 111–117 shall not apply to funds appro-*  
9 *priated by this Act: Provided, That the dollar amounts to*  
10 *be derived from fees collected under paragraph (5)(A) under*  
11 *such heading shall be “\$1,702,904” and “\$505,000”, respec-*  
12 *tively.*

13       *(b) Notwithstanding any other provision of this Act,*  
14 *the following provisions in division F of Public Law 111–*  
15 *117 shall not apply to funds appropriated by this Act:*

16             *(1) Section 7034(l).*

17             *(2) Section 7042(a), (b)(1), (c), and (d)(1).*

18             *(3) In section 7045:*

19                 *(A) The first sentence of subsection (c).*

20                 *(B) The first sentence of subsection (e)(1).*

21                 *(C) The first sentence of subsection (f).*

22                 *(D) Subsection (h).*

23             *(4) Section 7070(b).*

1           (5) *The third proviso under the heading “Ad-*  
2           *ministration of Foreign Affairs, Civilian Stabiliza-*  
3           *tion Initiative”.*

4           (6) *The fourth proviso under the heading “Bilat-*  
5           *eral Economic Assistance, Funds Appropriated to the*  
6           *President, Assistance for Europe, Eurasia and Cen-*  
7           *tral Asia”.*

8           SEC. 3107. (a) *Section 1115(d) of Public Law 111-*  
9           *32 is amended by striking “October 1, 2010” and inserting*  
10          *“October 1, 2011”.*

11          (b) *Section 824(g)(2)(A) of the Foreign Service Act of*  
12          *1980 (22 U.S.C. 4064(g)(2)(A)) is amended by striking*  
13          *“October 1, 2010” and inserting “October 1, 2011”.*

14          (c) *Section 61(a)(2) of the State Department Basic Au-*  
15          *thorities Act of 1956 (22 U.S.C. 2733(a)(2)) is amended by*  
16          *striking “October 1, 2010” and inserting “October 1, 2011”.*

17          (d) *Section 625(j)(1)(B) of the Foreign Assistance Act*  
18          *of 1961 (22 U.S.C. 2385(j)(1)(B)) is amended by striking*  
19          *“October 1, 2010” and inserting “October 1, 2011”.*

20          (e) *Section 1(b)(2) of the Passport Act of June 4, 1920*  
21          *(22 U.S.C. 214(b)(2)) is amended by striking “September*  
22          *30, 2010” and inserting “September 30, 2011”.*

23          (f) *The authority provided by section 1334 of the For-*  
24          *ign Affairs Reform and Restructuring Act of 1998 (22*

1 *U.S.C. 6553) shall remain in effect until September 30,*  
2 *2011.*

3 *(g) Section 404(b)(2)(B)(vi) of the Foreign Relations*  
4 *Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C.*  
5 *287e note) is amended by striking “calendar year 2010,”*  
6 *and inserting “calendar years 2010 and 2011.”*

7 *(h) The Foreign Operations, Export Financing, and*  
8 *Related Programs Appropriations Act, 1990 (Public Law*  
9 *101–167) is amended—*

10 *(1) in section 599D (8 U.S.C. 1157 note)—*

11 *(A) in subsection (b)(3), by striking “and*  
12 *2010” and inserting “2010, and 2011”; and*

13 *(B) in subsection (e), by striking “2010”*  
14 *each place it appears and inserting “2011”; and*

15 *(2) in section 599E (8 U.S.C. 1255 note) in sub-*  
16 *section (b)(2), by striking “2010” and inserting*  
17 *“2011”.*

18 *SEC. 3108. (a) The second proviso under the heading*  
19 *“International Security Assistance, Department of State,*  
20 *Peacekeeping Operations” in division F of Public Law*  
21 *111–117 shall be applied by substituting the following:*  
22 *“Provided further, That up to \$55,918,000 may be used to*  
23 *pay assessed expenses of international peacekeeping activi-*  
24 *ties in Somalia, except that up to an additional*  
25 *\$35,000,000 may be made available for such purpose subject*

1 *to prior consultation with, and the regular notification pro-*  
2 *cedures of, the Committees on Appropriations:”.*

3 *(b) Section 7034 of division F of Public Law 111–117*  
4 *shall be applied to funds appropriated by this Act by—*

5 *(1) substituting \$75,000,000 for the dollar*  
6 *amount in subsection (j); and*

7 *(2) substituting \$20,000,000 for the dollar*  
8 *amount in subsection (m)(5).*

9 *(c) Section 7043 of division F of Public Law 111–117*  
10 *shall be applied to funds appropriated by this Act by sub-*  
11 *stituting the following for subsection (b):*

12 *“(b) LIMITATION.—None of the funds appropriated or*  
13 *otherwise made available in title VI of this Act under the*  
14 *heading ‘Export-Import Bank of the United States’ may be*  
15 *used by the Export-Import Bank of the United States to*  
16 *provide any new financing (including loans, guarantees,*  
17 *other credits, insurance, and reinsurance) to any person*  
18 *that is subject to sanctions under paragraph (2) or (3) of*  
19 *section 5(a) of the Iran Sanctions Act of 1996 (Public Law*  
20 *104–172).”.*

21 *(d) Section 7045(b) of division F of Public Law 111–*  
22 *117 shall be applied to funds appropriated by this Act by*  
23 *substituting the following for paragraph (2):*

24 *“(2) Of the funds appropriated under the head-*  
25 *ing ‘Debt Restructuring’ in this Act, up to*

1       \$36,000,000 may be made available for the United  
2       States share of an increase in the resources of the  
3       Fund for Special Operations of the Inter-American  
4       Development Bank in furtherance of providing debt  
5       relief to Haiti in view of the Cancun Declaration of  
6       March 21, 2010.”.

7       (e)(1) Section 7046(a) of division F of Public Law  
8       111–117 shall be applied to funds appropriated by this Act  
9       by substituting “\$453,995,000” for the dollar amount.

10       (2) The dollar amount in the sixteenth proviso under  
11       the heading “Bilateral Economic Assistance, Funds Appro-  
12       priated to the President, Economic Support Fund” in divi-  
13       sion F of Public Law 111–117 shall be deemed to be  
14       “\$195,000,000”.

15       (3) The dollar amount in the seventh proviso of the  
16       first paragraph under the heading “International Security  
17       Assistance, Funds Appropriated to the President, Foreign  
18       Military Financing Program” in division F of Public Law  
19       111–117 shall be deemed to be “\$44,500,000” for the pur-  
20       pose of applying funds appropriated under such headings  
21       by this Act.

22       (f) The second proviso of section 7081(d) of division  
23       F of Public Law 111–117 is amended to read as follows:  
24       “: Provided further, That funds appropriated under title  
25       III of this Act for tropical forest programs shall be used

1 *for purposes including to implement and enforce section*  
2 *8204 of Public Law 110–246, shall not be used to support*  
3 *or promote the expansion of industrial scale logging into*  
4 *primary tropical forests, and shall be subject to prior con-*  
5 *sultation with, and the regular notification procedures of,*  
6 *the Committees on Appropriations”.*

7       *SEC. 3109. (a) Subsections (b) through (e) of this sec-*  
8 *tion shall apply to funds appropriated by this Act in lieu*  
9 *of section 7076 of division F of Public Law 111–117.*

10       *(b) LIMITATION.—None of the funds appropriated or*  
11 *otherwise made available by this Act under the headings*  
12 *“Economic Support Fund” and “International Narcotics*  
13 *Control and Law Enforcement” may be obligated for assist-*  
14 *ance for Afghanistan until the Secretary of State, in con-*  
15 *sultation with the Administrator of the United States Agen-*  
16 *cy for International Development (USAID), certifies and*  
17 *reports to the Committees on Appropriations that—*

18               *(1) The Government of Afghanistan is—*

19                       *(A) demonstrating a commitment to reduce*  
20 *corruption and improve governance, including*  
21 *by investigating, prosecuting, sanctioning and/or*  
22 *removing corrupt officials from office and to im-*  
23 *plement financial transparency and account-*  
24 *ability measures for government institutions and*

1           *officials (including the Central Bank) as well as*  
2           *to conduct oversight of public resources;*

3                   *(B) taking significant steps to facilitate ac-*  
4           *tive public participation in governance and*  
5           *oversight; and*

6                   *(C) taking credible steps to protect the*  
7           *internationally recognized human rights of Af-*  
8           *ghan women.*

9           *(2) There is a unified United States Government*  
10          *anti-corruption strategy for Afghanistan that is ade-*  
11          *quately funded, and is being implemented in conjunc-*  
12          *tion with relevant Afghan authorities.*

13                  *(3) Funds will be programmed to support and*  
14          *strengthen the capacity of Afghan public and private*  
15          *institutions and entities to reduce corruption and to*  
16          *improve transparency and accountability of national,*  
17          *provincial and local governments, such as—*

18                          *(A) the High Office of Oversight;*

19                          *(B) the Control and Audit Office;*

20                          *(C) the Afghan Criminal Justice Task*  
21          *Force;*

22                          *(D) the Afghan Judicial Security Unit;*

23                          *(E) the Anti-Corruption Tribunal, and the*  
24          *Attorney General's Anti-Corruption Unit;*

1           (F) the training and mentoring of judicial  
2           personnel;

3           (G) the training and mentoring of Afghan  
4           Government personnel in financial management,  
5           budgeting, and independent oversight of public  
6           funds; and

7           (H) Afghan civil society organizations and  
8           media institutions that play an important role  
9           in government oversight.

10          (4) Representatives of Afghan national, provin-  
11          cial or local governments, local communities and civil  
12          society organizations, as appropriate, will be con-  
13          sulted and participate in the design of programs,  
14          projects, and activities, including participation in  
15          implementation and oversight, and the development of  
16          specific benchmarks to measure progress and out-  
17          comes.

18          (5) Funds will be used to train and deploy addi-  
19          tional United States Government direct-hire per-  
20          sonnel to improve monitoring and control of assist-  
21          ance to ensure that funds are used for the intended  
22          purpose and do not support illicit and/or corrupt ac-  
23          tivities.

24          (6) A framework and methodology is being uti-  
25          lized to assess national, provincial, local and sector



1 *level fiduciary risks relating to public financial man-*  
2 *agement of United States Government assistance.*

3 (c) *DIRECT GOVERNMENT-TO-GOVERNMENT ASSIST-*  
4 *ANCE.—*

5 (1) *Funds appropriated or otherwise made avail-*  
6 *able by this Act for assistance for Afghanistan may*  
7 *not be made available for direct government-to-gov-*  
8 *ernment assistance unless the Secretary of State cer-*  
9 *tifies to the Committees on Appropriations that the*  
10 *relevant Afghan implementing agency has been as-*  
11 *essed and considered qualified to manage such funds*  
12 *and the Government of the United States and the*  
13 *Government of Afghanistan have agreed, in writing,*  
14 *to clear and achievable goals and objectives for the use*  
15 *of such funds, and have established mechanisms with-*  
16 *in each implementing agency to ensure that such*  
17 *funds are used for the purposes for which they were*  
18 *intended: Provided, That the Secretary of State*  
19 *should suspend any direct government-to-government*  
20 *assistance to an implementing agency if the Secretary*  
21 *has credible information of misuse of such funds by*  
22 *any such agency: Provided further, That any such as-*  
23 *sistance shall be subject to prior consultation with,*  
24 *and the regular notification procedures of, the Com-*  
25 *mittees on Appropriations.*

1           (2) *Funds appropriated or otherwise made avail-*  
2 *able by this Act for assistance for Afghanistan may*  
3 *be made available as a United States contribution to*  
4 *the Afghanistan Reconstruction Trust Fund (ARTF)*  
5 *unless the Secretary of State determines and reports*  
6 *to the Committees on Appropriations that the World*  
7 *Bank Monitoring Agent of the ARTF is unable to*  
8 *conduct its financial control and audit responsibil-*  
9 *ities due to restrictions on security personnel by the*  
10 *Government of Afghanistan.*

11 *(d) ASSISTANCE FOR OPERATIONS.—*

12           (1) *Funds appropriated under the headings*  
13 *“Economic Support Fund” and “International Nar-*  
14 *cotics Control and Law Enforcement” in this Act that*  
15 *are available for assistance for Afghanistan—*

16           (A) *shall be made available, to the max-*  
17 *imum extent practicable, in a manner that em-*  
18 *phasizes the participation of Afghan women, and*  
19 *directly improves the security, economic and so-*  
20 *cial well-being, and political status, and protects*  
21 *the rights of, Afghan women and girls and com-*  
22 *plies with sections 7062 and 7063 of division F*  
23 *of Public Law 111–117, including support for*  
24 *the Afghan Independent Human Rights Commis-*

1            *sion, the Afghan Ministry of Women’s Affairs,*  
2            *and women-led nongovernmental organizations;*

3            *(B) may be made available for a United*  
4            *States contribution to an internationally-man-*  
5            *aged fund to support the reconciliation with and*  
6            *disarmament, demobilization and reintegration*  
7            *into Afghan society of former combatants who*  
8            *have renounced violence against the Government*  
9            *of Afghanistan: Provided, That funds may be*  
10           *made available to support reconciliation and re-*  
11           *integration activities only if—*

12           *(i) Afghan women are participating at*  
13           *national, provincial and local levels of gov-*  
14           *ernment in the design, policy formulation*  
15           *and implementation of the reconciliation or*  
16           *reintegration process, and such process up-*  
17           *holds steps taken by the Government of Af-*  
18           *ghanistan to protect the internationally rec-*  
19           *ognized human rights of Afghan women;*  
20           *and*

21           *(ii) such funds will not be used to sup-*  
22           *port any pardon or immunity from pros-*  
23           *ecution, or any position in the Government*  
24           *of Afghanistan or security forces, for any*  
25           *leader of an armed group responsible for*

1           *crimes against humanity, war crimes, or*  
2           *other violations of internationally recog-*  
3           *nized human rights.*

4           *(C) may be made available for a United*  
5           *States contribution to the North Atlantic Treaty*  
6           *Organization/International Security Assistance*  
7           *Force Post-Operations Humanitarian Relief*  
8           *Fund; and*

9           *(D) should be made available, notwith-*  
10          *standing any provision of law that restricts as-*  
11          *sistance to foreign countries, for cross border sta-*  
12          *bilization and development programs between Af-*  
13          *ghanistan and Pakistan or between either coun-*  
14          *try and the Central Asian republics.*

15          *(2) Programs and activities funded under titles*  
16          *III and IV of this Act that provide training for for-*  
17          *oreign police, judicial, and military personnel shall ad-*  
18          *dress, where appropriate, gender-based violence.*

19          *(3) The authority contained in section 1102(c) of*  
20          *Public Law 111–32 shall continue in effect during fis-*  
21          *cal year 2011 and shall apply as if included in this*  
22          *Act.*

23          *(4) The Coordinator for Rule of Law at the*  
24          *United States Embassy in Kabul, Afghanistan shall*

1 *be consulted on the use of all funds appropriated by*  
2 *this Act for rule of law programs in Afghanistan.*

3 *(5) None of the funds made available by this Act*  
4 *may be used by the United States Government to*  
5 *enter into a permanent basing rights agreement be-*  
6 *tween the United States and Afghanistan.*

7 *(6) The Secretary of State, after consultation*  
8 *with the USAID Administrator, shall submit to the*  
9 *Committees on Appropriations not later than 45 days*  
10 *after enactment of this Act, and prior to the initial*  
11 *obligation of funds, a detailed spending plan for as-*  
12 *sistance for Afghanistan which shall include clear and*  
13 *achievable goals, benchmarks for measuring progress,*  
14 *and expected results: Provided, That such plan shall*  
15 *not be considered as meeting the notification require-*  
16 *ments under section 7015 of division F of Public Law*  
17 *111–117 or under section 634A of the Foreign Assist-*  
18 *ance Act of 1961.*

19 *(7) Any significant modification to the scope, ob-*  
20 *jectives, or implementation mechanisms of United*  
21 *States assistance programs in Afghanistan shall be*  
22 *subject to prior consultation with, and the regular no-*  
23 *tification procedures of, the Committees on Appro-*  
24 *propriations, except that the prior consultation require-*

1 *ment may be waived in a manner consistent with sec-*  
2 *tion 7015(e) of division F of Public Law 111–117.*

3 *(e) OVERSIGHT.—*

4 *(1) The Special Inspector General for Afghani-*  
5 *stan Reconstruction, the Inspector General of the De-*  
6 *partment of State and the Inspector General of*  
7 *USAID, shall jointly develop and submit to the Com-*  
8 *mittees on Appropriations within 45 days of enact-*  
9 *ment of this Act a coordinated audit and inspection*  
10 *plan of United States assistance for, and civilian op-*  
11 *erations in, Afghanistan.*

12 *(2) Of the funds appropriated in this Act under*  
13 *the heading “Economic Support Fund” for assistance*  
14 *for Afghanistan, \$3,000,000 shall be transferred to,*  
15 *and merged with, funds made available under the*  
16 *heading “Office of Inspector General” in title I of this*  
17 *Act, for increased oversight of programs in Afghani-*  
18 *stan and shall be in addition to funds otherwise*  
19 *available for such purposes: Provided, That*  
20 *\$1,500,000 shall be for the Special Inspector General*  
21 *for Afghanistan Reconstruction.*

22 *(3) Of the funds appropriated in this Act under*  
23 *the heading “Economic Support Fund” for assistance*  
24 *for Afghanistan, \$1,500,000 shall be transferred to,*  
25 *and merged with, funds appropriated under the head-*

1        *ing “Office of Inspector General” in title II of this*  
2        *Act for increased oversight of programs in Afghani-*  
3        *stan and shall be in addition to funds otherwise*  
4        *available for such purposes.*

5        *(f) MODIFICATION TO PRIOR PROVISIONS.—*

6                *(1) Section 1004(c)(1)(C) of Public Law 111–*  
7        *212 is amended to read as follows:*

8                *“(C) taking credible steps to protect the inter-*  
9        *nationally recognized human rights of Afghan*  
10        *women.”.*

11                *(2) Section 1004(d)(l) of Public Law 111–212 is*  
12        *amended to read as follows:*

13                *“(1) Afghan women are participating at na-*  
14        *tional, provincial and local levels of government in*  
15        *the design, policy formulation and implementation of*  
16        *the reconciliation or reintegration process, and such*  
17        *process upholds steps taken by the Government of Af-*  
18        *ghanistan to protect the internationally recognized*  
19        *human rights of Afghan women; and”.*

20                *(3) Section 1004(e)(1) of Public Law 111–212 is*  
21        *amended to read as follows:*

22                *“(1) based on information available to the Sec-*  
23        *retary, the Independent Electoral Commission has no*  
24        *members or other employees who participated in, or*  
25        *helped to cover up, acts of fraud in the 2009 presi-*

1        *dential election in Afghanistan, and the Electoral*  
2        *Complaints Commission is a genuinely independent*  
3        *body with all the authorities that were invested in it*  
4        *under Afghan law as of December 31, 2009; and”.*

5        *SEC. 3110. In addition to amounts otherwise made*  
6        *available by this Act, \$100,000,000, to remain available*  
7        *until expended, is appropriated for payment as a contribu-*  
8        *tion to a global food security fund by the Secretary of the*  
9        *Treasury.*

10        *SEC. 3111. (a) CONTRIBUTION TO THE ASIAN DEVEL-*  
11        *OPMENT BANK.—In addition to amounts otherwise made*  
12        *available by this Act, \$106,586,000, to remain available*  
13        *until expended, is appropriated for payment to the Asian*  
14        *Development Bank by the Secretary of the Treasury for the*  
15        *United States share of the paid-in portion of the increase*  
16        *in capital stock.*

17        *(b) LIMITATION ON CALLABLE CAPITAL SUBSCRIP-*  
18        *TIONS.—The United States Governor of the Asian Develop-*  
19        *ment Bank may subscribe without fiscal year limitation to*  
20        *the callable capital portion of the United States share of*  
21        *such capital stock in an amount not to exceed*  
22        *\$2,558,048,769.*

23        *(c) AMENDMENT.—The Asian Development Bank Act*  
24        *(22 U.S.C. 285 et seq.), is amended by adding at the end*  
25        *the following:*



## 1                                   “NINTH REPLENISHMENT

2           “SEC. 33. (a) *The United States Governor of the Bank*  
3 *is authorized to contribute, on behalf of the United States,*  
4 *\$461,000,000 to the ninth replenishment of the resources of*  
5 *the Fund, subject to obtaining the necessary appropriations.*

6           “(b) *In order to pay for the United States contribution*  
7 *provided for in subsection (a), there are authorized to be*  
8 *appropriated, without fiscal year limitation, \$461,000,000*  
9 *for payment by the Secretary of the Treasury.*

## 10                                   “FIFTH CAPITAL INCREASE

11           “SEC. 34. (a) *Subscription Authorized.*

12                           “(1) *The United States Governor of the Bank*  
13 *may subscribe on behalf of the United States to*  
14 *1,104,420 additional shares of the capital stock of the*  
15 *Bank.*

16                           “(2) *Any subscription by the United States to*  
17 *capital stock of the Bank shall be effective only to*  
18 *such extent or in such amounts as are provided in ad-*  
19 *vance in appropriations Acts.*

20           “(b) *Authorization of Appropriations—*

21                           “(1) *In order to pay for the increase in the*  
22 *United States subscription to the Bank provided for*  
23 *in subsection (a), there are authorized to be appro-*  
24 *priated, without fiscal year limitation,*  
25 *\$13,323,173,083, for payment by the Secretary of the*  
26 *Treasury.*

1           “(2) Of the amount authorized to be appro-  
2           priated under paragraph (1)—

3                   “(A) \$532,929,240 is authorized to be ap-  
4                   propriated for paid in shares of the Bank; and

5                   “(B) \$12,790,243,843 is authorized to be  
6                   appropriated for callable shares of the Bank, for  
7                   payment by the Secretary of the Treasury.”.

8   CHAPTER 12—TRANSPORTATION, AND HOUSING  
9           AND URBAN DEVELOPMENT, AND RELATED  
10          AGENCIES

11          SEC. 3201. Notwithstanding section 1101, the level for  
12          “Department of Transportation, Federal Aviation Admin-  
13          istration, Operations” shall be \$9,542,983,000, of which  
14          \$4,559,000,000 shall be derived from the Airport and Air-  
15          way Trust Fund, of which no less than \$7,473,299,000 shall  
16          be for air traffic organization activities; no less than  
17          \$1,253,020,000 shall be for aviation regulation and certifi-  
18          cation activities; not to exceed \$15,237,000 shall be avail-  
19          able for commercial space transportation activities; not to  
20          exceed \$113,681,000 shall be available for financial services  
21          activities; not to exceed \$100,428,000 shall be available for  
22          human resources program activities; not to exceed  
23          \$341,977,000 shall be available for region and center oper-  
24          ations and regional coordination activities; not to exceed  
25          \$196,063,000 shall be available for staff offices; and not to

1 exceed \$49,278,000 shall be available for information serv-  
2 ices.

3       SEC. 3202. *The amounts included under the heading*  
4 *“Department of Transportation, Federal Aviation Admin-*  
5 *istration, Grants-in-Aid for Airports (Liquidation of Con-*  
6 *tract Authorization)” in division A of Public Law 111–117*  
7 *shall be applied to funds appropriated by this Act by sub-*  
8 *stituting “\$3,550,000,000” for “\$3,000,000,000”.*

9       SEC. 3203. *Notwithstanding section 1101, the level for*  
10 *“Department of Transportation, Federal Highway Admin-*  
11 *istration, Surface Transportation Priorities” shall be \$0.*

12       SEC. 3204. *Notwithstanding section 1101, no funds are*  
13 *provided for activities described in section 122 of title I of*  
14 *division A of Public Law 111–117.*

15       SEC. 3205. *Of the amount made available for “Depart-*  
16 *ment of Transportation, Motor Carrier Safety Grants, (Liq-*  
17 *uidation of Contract Authorization), (Limitation on Obli-*  
18 *gations), (Highway Trust Fund)” for the commercial driv-*  
19 *er’s license information system modernization program,*  
20 *\$3,000,000 shall be made available for audits of new en-*  
21 *trant motor carriers to carry out section 4107(b) of Public*  
22 *Law 109–59, and 31104(a) of title 49, United States Code,*  
23 *and \$5,000,000 shall be made available for the commercial*  
24 *driver’s license improvements program to carry out section*  
25 *31313 of title 49, United States Code.*

1        *SEC. 3206. Notwithstanding section 1101, the level for*  
2 *“Department of Transportation, Federal Railroad Admin-*  
3 *istration, Safety and Operations” shall be \$176,950,000.*

4        *SEC. 3207. Notwithstanding section 1101, the level for*  
5 *“Department of Transportation, Federal Railroad Admin-*  
6 *istration, Capital Assistance for High Speed Rail Corridors*  
7 *and Intercity Passenger Rail Service” shall be*  
8 *\$1,000,000,000.*

9        *SEC. 3208. Notwithstanding section 1101, the level for*  
10 *“Department of Transportation, Maritime Administration,*  
11 *Operations and Training” shall be \$155,750,000, of which*  
12 *\$11,240,000 shall remain available until expended for*  
13 *maintenance and repair of training ships at State Mari-*  
14 *time Academies, and of which \$15,000,000 shall remain*  
15 *available until expended for capital improvements at the*  
16 *United States Merchant Marine Academy, of which*  
17 *\$59,057,000 shall be available for operations at the United*  
18 *States Merchant Marine Academy, and of which \$6,000,000*  
19 *shall remain available until expended for the Secretary’s*  
20 *reimbursement of overcharged midshipmen fees for aca-*  
21 *demic years 2003–2004 through 2008–2009 and such action*  
22 *shall be final and conclusive.*

23        *SEC. 3209. Notwithstanding section 1101, the level for*  
24 *each of the following accounts under the heading “Depart-*  
25 *ment of Transportation, Pipeline and Hazardous Materials*

1 *Safety Administration*” shall be as follows: “Operational  
2 *Expenses (Pipeline Safety Fund)*”, \$21,496,000; “*Haz-*  
3 *ardous Materials Safety*”, \$39,098,000, of which \$1,699,000  
4 shall remain available until September 30, 2013; and  
5 “*Pipeline Safety (Pipeline Safety Fund) (Oil Spill Liabil-*  
6 *ity Trust Fund)*”, \$106,919,000, of which \$18,905,000 shall  
7 be derived from the *Oil Spill Liability Trust Fund* and  
8 shall remain available until September 30, 2013, and of  
9 which \$88,014,000 shall be derived from the *Pipeline Safety*  
10 *Fund*, of which \$47,332,000 shall remain available until  
11 September 30, 2013.

12       *SEC. 3210. Notwithstanding section 1101, section 186*  
13 *of title I of division A of Public Law 111–117 shall not*  
14 *apply to fiscal year 2011.*

15       *SEC. 3211. Notwithstanding section 1101, the level for*  
16 *“Department of Housing and Urban Development, Per-*  
17 *sonnel Compensation and Benefits, Housing” shall be*  
18 *\$390,885,000.*

19       *SEC. 3212. Notwithstanding section 1101, the level for*  
20 *“Department of Housing and Urban Development, Per-*  
21 *sonnel Compensation and Benefits, Office of the Govern-*  
22 *ment National Mortgage Association” shall be \$14,000,000.*

23       *SEC. 3213. Notwithstanding section 1101, the level for*  
24 *“Department of Housing and Urban Development, Public*  
25 *and Indian Housing, Tenant-Based Rental Assistance”*

1 shall be \$14,863,998,000, to remain available until ex-  
2 pended, shall be available on October 1, 2010 (in addition  
3 to the \$4,000,000,000 previously appropriated under such  
4 heading that will become available on October 1, 2010), and  
5 notwithstanding section 1109, an additional  
6 \$4,000,000,000, to remain available until expended, shall  
7 be available on October 1, 2011: Provided, That of the  
8 amounts available for such heading, \$16,993,998,000 shall  
9 be for activities specified in paragraph: (1) and  
10 \$145,000,000 shall be for activities specified in paragraph  
11 (2) under such heading of division A of Public Law 111–  
12 117: Provided further, That of the amounts made available  
13 for activities under paragraph; (2) under such heading of  
14 division A of Public Law 111–117, \$25,000,000 shall be  
15 available to provide tenant protection assistance, not other-  
16 wise provided under this paragraph, to residents residing  
17 in low-vacancy areas and who may have to pay rents great-  
18 er than 30 percent of household income, as the result of:  
19 (1) the maturity of a HUD-insured, HUD-held or section  
20 202 loan that requires the permission of the Secretary prior  
21 to loan payment; (2) the expiration of a rental assistance  
22 contract for which the tenants are not eligible for enhanced  
23 voucher or tenant protection assistance under existing law;  
24 or (3) the expiration of affordability restrictions accom-  
25 panying a mortgage or preservation program administered

1 *by the Secretary: Provided further, That such tenant protec-*  
2 *tion assistance made available under the previous proviso*  
3 *may be provided under the authority of section 8(t) of the*  
4 *United States Housing Act of 1937 (42 U.S.C. 1937f(t)):*  
5  *Provided further, That the Secretary shall issue guidance*  
6 *to implement the previous two provisos, including but not*  
7 *limited to requirements for defining eligible at-risk house-*  
8 *holds, within 120 days of the enactment of this Act.*

9       *SEC. 3214. The seventh proviso in paragraph (1)*  
10 *under the heading “Department of Housing and Urban De-*  
11 *velopment, Public and Indian Housing, Tenant-Based*  
12 *Rental Assistance” in division A of Public Law 111–117*  
13 *shall be applied in fiscal year 2011 by inserting before the*  
14 *colon at the end the following: “; (5) for one-time adjust-*  
15 *ments of renewal funding for public housing agencies in re-*  
16 *ceivership with approved fungibility plans for calendar*  
17 *year 2009 as authorized in section 11003 of the Consoli-*  
18 *dated Security, Disaster Assistance, and Continuing Ap-*  
19 *propriations Act, 2009 (Public Law 110–329); or (6) to ad-*  
20 *just allocations for public housing agencies to prevent ter-*  
21 *mination of assistance to families receiving assistance*  
22 *under the disaster voucher program, as authorized by chap-*  
23 *ter 9 of title I of division B of Public Law 109–148 under*  
24 *the heading ‘Tenant-Based Rental Assistance’ ”.*

1        *SEC. 3215. Notwithstanding section 1101, the level for*  
2        *“Department of Housing and Urban Development, Commu-*  
3        *nity Planning and Development, Community Development*  
4        *Fund” shall be \$4,255,000,000, of which \$3,990,000,000*  
5        *shall be for carrying out the community development block*  
6        *grant program under title I of the Housing and Community*  
7        *Development Act of 1974, as amended: Provided, That none*  
8        *of the funds made available by this section for such account*  
9        *may be used for grants for the Economic Development Ini-*  
10       *tiative or Neighborhood Initiatives activities.*

11       *SEC. 3216. Notwithstanding section 1101, the level for*  
12       *“Department of Housing and Urban Development, Commu-*  
13       *nity Planning and Development, Homeless Assistance*  
14       *Grants” shall be \$2,055,000,000.*

15       *SEC. 3217. Notwithstanding section 1101, the level for*  
16       *“Department of Housing and Urban Development, Housing*  
17       *Programs, Project-Based Rental Assistance” shall be*  
18       *\$8,882,328,000, to remain available until expended, shall*  
19       *be available on October 1, 2010 (in addition to the*  
20       *\$393,672,000 previously appropriated under such heading*  
21       *that became available on October 1, 2010), and, notwith-*  
22       *standing section 1109, an additional \$400,000,000, to re-*  
23       *main available until expended, shall be available on October*  
24       *1, 2011: Provided, That of the amounts available for such*  
25       *heading, \$8,950,000,000 shall be for activities specified in*



1 paragraph (1) under such heading of division A of Public  
2 Law 111–117 and \$326,000,000 shall be available for ac-  
3 tivities specified in paragraph (2) under such heading in  
4 such public law.

5       *SEC. 3218. Notwithstanding section 1101, the level for*  
6 *“Department of Housing and Urban Development, Housing*  
7 *Programs, Energy Innovation Fund” shall be \$0.*

8       *SEC. 3219. The heading “Department of Housing and*  
9 *Urban Development, Housing Program, Other Assisted*  
10 *Housing Programs, Rental Housing Assistance” shall be*  
11 *applied by inserting “, or extensions of up to one year for*  
12 *expiring contracts,” after “for amendments to contracts”.*

13       *SEC. 3220. Notwithstanding section 1101, the level*  
14 *under the heading “Department of Housing and Urban De-*  
15 *velopment, Housing Programs, Rent Supplement (Rescis-*  
16 *sion)” shall be \$40,060,000.*

17       *SEC. 3221. Notwithstanding section 1101, the level for*  
18 *“Department of Housing and Urban Development, Federal*  
19 *Housing Administration, Mutual Mortgage Insurance Pro-*  
20 *gram Account” for administrative contract expenses shall*  
21 *be \$221,125,000.*

22       *SEC. 3222. The first proviso in the first paragraph*  
23 *under the heading “Department of Housing and Urban De-*  
24 *velopment, Federal Housing Administration, General and*  
25 *Special Risk Program Account” in division A of Public*

1 *Law 111–117 shall be applied in fiscal year 2011 by sub-*  
2 *stituting “\$20,000,000,000” for “\$15,000,000,000”.*

3 *SEC. 3223. Notwithstanding section 1101, the level for*  
4 *“Department of Housing and Urban Development, Manage-*  
5 *ment and Administration, Working Capital Fund” shall be*  
6 *\$228,500,000.*

7 *SEC. 3224. Notwithstanding section 1101, the level for*  
8 *“Related Agencies, National Railroad Passenger Corpora-*  
9 *tion, Office of Inspector General, Salaries and Expenses”*  
10 *shall be \$19,496,000.*

11 *SEC. 3225. Notwithstanding section 1101, the level*  
12 *under the heading “Related Agencies, United States Inter-*  
13 *agency Council on Homelessness, Operating Expenses” shall*  
14 *be \$3,930,000.*

15 *SEC. 3226. Section 209 of the McKinney-Vento Home-*  
16 *less Assistance Act (42 U.S.C. 11319) is repealed.*

17 *SEC. 3227. Unobligated balances of funds made avail-*  
18 *able for obligation under 23 U.S.C. 320, section 147 of Pub-*  
19 *lic Law 95–599, section 9(c) of Public Law 97–134, section*  
20 *149 of Public Law 100–17, and sections 1006, 1069, 1103,*  
21 *1104, 1105, 1106, 1107, 1108, 6005, 6015, and 6023 of Pub-*  
22 *lic Law 102–240 are permanently rescinded. In addition,*  
23 *the unobligated balance available on September 30, 2011,*  
24 *under section 1602 of the Transportation Equity Act for*  
25 *the 21st Century (Public Law 105–178) for each project for*

1 *which less than 10 percent of the amount authorized for*  
2 *such project under such section has been obligated is perma-*  
3 *nently rescinded. In addition, of the amounts authorized*  
4 *for fiscal years 2005 through 2009 in section 1101(a)(16)*  
5 *of the Safe, Accountable, Flexible, Efficient Transportation*  
6 *Equity Act: A Legacy for Users (Public Law 109–59) to*  
7 *carry out the high priority projects program under section*  
8 *117 of title 23, United States Code, that are not allocated*  
9 *for projects described in section 1702 of such Act,*  
10 *\$8,190,335 are permanently rescinded.*

11 ***DIVISION B—SURFACE***  
12 ***TRANSPORTATION EXTENSION***

13 ***SEC. 4001. SHORT TITLE; RECONCILIATION OF FUNDS.***

14 (a) *SHORT TITLE.—This division may be cited as the*  
15 *“Surface Transportation Extension Act of 2010, Part II”.*

16 (b) *RECONCILIATION OF FUNDS.—The Secretary of*  
17 *Transportation shall reduce the amount apportioned or al-*  
18 *located for a program, project, or activity under this divi-*  
19 *sion in fiscal year 2011 by amounts apportioned or allo-*  
20 *cated pursuant to the Surface Transportation Extension*  
21 *Act of 2010 for the period beginning on October 1, 2010,*  
22 *and ending on December 31, 2010.*

1                   **TITLE I—FEDERAL-AID**  
2                   **HIGHWAYS**

3   **SEC. 4101. EXTENSION OF FEDERAL-AID HIGHWAY PRO-**  
4                   **GRAMS.**

5           (a) *IN GENERAL.*—Section 411 of the Surface Trans-  
6   portation Extension Act of 2010 (Public Law 111–147; 124  
7   Stat. 78) is amended—

8           (1) by striking “the period beginning on October  
9   1, 2010, and ending on December 31, 2010” each  
10   place it appears (except in subsection (c)(2)) and in-  
11   serting “fiscal year 2011”;

12           (2) in subsection (a) by striking “December 31,  
13   2010” and inserting “September 30, 2011”;

14           (3) in subsection (b)(2) by striking “<sup>1</sup>/<sub>4</sub> of”;

15           (4) in subsection (c)—

16           (A) in paragraph (2)—

17           (i) by striking “<sup>1</sup>/<sub>4</sub> of”; and

18           (ii) by striking “the period beginning  
19   on October 1, 2010, and ending on Decem-  
20   ber 31, 2010,” and inserting “fiscal year  
21   2011”;

22           (B) in paragraph (4)—

23           (i) in subparagraph (A)(ii) by striking  
24   “, except that during such period obliga-  
25   tions subject to such limitation shall not ex-

1           ceed  $\frac{1}{4}$  of the limitation on obligations in-  
2           cluded in an Act making appropriations for  
3           fiscal year 2011”; and

4                   (ii) in subparagraph (B)(ii)(II) by  
5           striking “\$159,750,000” and inserting  
6           “\$639,000,000”; and

7           (C) by striking paragraph (5);

8           (5) in subsection (d)—

9                   (A) by striking “ $\frac{1}{4}$  of” each place it ap-  
10          pears; and

11                   (B) in paragraph (2)(A)—

12                           (i) in the matter preceding clause (i)  
13          by striking “apportioned under sections  
14          104(b) and 144 of title 23, United States  
15          Code,” and inserting “specified in section  
16          105(a)(2) of title 23, United States Code  
17          (except the high priority projects pro-  
18          gram),”; and

19                           (ii) in clause (ii) by striking “appor-  
20          tioned under such sections of such Code”  
21          and inserting “specified in such section  
22          105(a)(2) (except the high priority projects  
23          program)”; and

24          (6) in subsection (e)(1)(B) by striking “ $\frac{1}{4}$ ”.

1       (b) *ADMINISTRATIVE EXPENSES.*—Section 412(a)(2)  
 2 *of the Surface Transportation Extension Act of 2010 (Pub-*  
 3 *lic Law 111–147; 124 Stat. 83) is amended—*

4           (1) *by striking “\$105,606,250” and inserting*  
 5 *“\$422,425,000”; and*

6           (2) *by striking “the period beginning on October*  
 7 *1, 2010, and ending on December 31, 2010” and in-*  
 8 *serting “fiscal year 2011”.*

9       **TITLE II—NATIONAL HIGHWAY**  
 10       **TRAFFIC SAFETY ADMINIS-**  
 11       **TRATION, FEDERAL MOTOR**  
 12       **CARRIER SAFETY ADMINIS-**  
 13       **TRATION, AND ADDITIONAL**  
 14       **PROGRAMS**

15       **SEC. 4201. EXTENSION OF NATIONAL HIGHWAY TRAFFIC**  
 16               **SAFETY ADMINISTRATION HIGHWAY SAFETY**  
 17               **PROGRAMS.**

18       (a) *CHAPTER 4 HIGHWAY SAFETY PROGRAMS.*—Sec-  
 19 *tion 2001(a)(1) of SAFETEA–LU (119 Stat. 1519) is*  
 20 *amended by striking “and \$58,750,000 for the period begin-*  
 21 *ning on October 1, 2010, and ending on December 31,*  
 22 *2010.” and inserting “and \$235,000,000 for fiscal year*  
 23 *2011.”.*

24       (b) *HIGHWAY SAFETY RESEARCH AND DEVELOP-*  
 25 *MENT.*—Section 2001(a)(2) of SAFETEA–LU (119 Stat.

1 1519) is amended by striking “and \$27,061,000 for the pe-  
2 riod beginning on October 1, 2010, and ending on December  
3 31, 2010.” and inserting “and \$108,244,000 for fiscal year  
4 2011.”.

5 (c) OCCUPANT PROTECTION INCENTIVE GRANTS.—Sec-  
6 tion 2001(a)(3) of SAFETEA-LU (119 Stat. 1519) is  
7 amended by striking “and \$6,250,000 for the period begin-  
8 ning on October 1, 2010, and ending on December 31,  
9 2010.” and inserting “and \$25,000,000 for fiscal year  
10 2011.”.

11 (d) SAFETY BELT PERFORMANCE GRANTS.—Section  
12 2001(a)(4) of SAFETEA-LU (119 Stat. 1519) is amended  
13 by striking “and \$31,125,000 for the period beginning on  
14 October 1, 2010, and ending on December 31, 2010.” and  
15 inserting “and \$124,500,000 for fiscal year 2011.”.

16 (e) STATE TRAFFIC SAFETY INFORMATION SYSTEM IM-  
17 PROVEMENTS.—Section 2001(a)(5) of SAFETEA-LU (119  
18 Stat. 1519) is amended by striking “and \$8,625,000 for the  
19 period beginning on October 1, 2010, and ending on Decem-  
20 ber 31, 2010.” and inserting “and \$34,500,000 for fiscal  
21 year 2011.”.

22 (f) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES  
23 INCENTIVE GRANT PROGRAM.—Section 2001(a)(6) of  
24 SAFETEA-LU (119 Stat. 1519) is amended by striking  
25 “and \$34,750,000 for the period beginning on October 1,

1 2010, and ending on December 31, 2010.” and inserting  
2 “and \$139,000,000 for fiscal year 2011.”.

3 (g) NATIONAL DRIVER REGISTER.—Section  
4 2001(a)(7) of SAFETEA-LU (119 Stat. 1520) is amended  
5 by striking “and \$1,029,000 for the period beginning on  
6 October 1, 2010, and ending on December 31, 2010.” and  
7 inserting “and \$4,116,000 for fiscal year 2011.”.

8 (h) HIGH VISIBILITY ENFORCEMENT PROGRAM.—Sec-  
9 tion 2001(a)(8) of SAFETEA-LU (119 Stat. 1520) is  
10 amended by striking “and \$7,250,000 for the period begin-  
11 ning on October 1, 2010, and ending on December 31,  
12 2010.” and inserting “and \$29,000,000 for fiscal year  
13 2011.”.

14 (i) MOTORCYCLIST SAFETY.—Section 2001(a)(9) of  
15 SAFETEA-LU (119 Stat. 1520) is amended by striking  
16 “and \$1,750,000 for the period beginning on October 1,  
17 2010, and ending on December 31, 2010.” and inserting  
18 “and \$7,000,000 for fiscal year 2011.”.

19 (j) CHILD SAFETY AND CHILD BOOSTER SEAT SAFETY  
20 INCENTIVE GRANTS.—Section 2001(a)(10) of SAFETEA-  
21 LU (119 Stat. 1520) is amended by striking “and  
22 \$1,750,000 for the period beginning on October 1, 2010, and  
23 ending on December 31, 2010.” and inserting “and  
24 \$7,000,000 for fiscal year 2011.”.



1           (k) *ADMINISTRATIVE EXPENSES.*—Section 2001(a)(11)  
 2 of SAFETEA-LU (119 Stat. 1520) is amended by striking  
 3 “and \$6,332,000 for the period beginning on October 1,  
 4 2010, and ending on December 31, 2010.” and inserting  
 5 “and \$25,328,000 for fiscal year 2011.”.

6 **SEC. 4202. EXTENSION OF FEDERAL MOTOR CARRIER SAFE-**  
 7 **TY ADMINISTRATION PROGRAMS.**

8           (a) *MOTOR CARRIER SAFETY GRANTS.*—Section  
 9 31104(a)(7) of title 49, United States Code, is amended by  
 10 striking “\$52,679,000 for the period beginning on October  
 11 1, 2010, and ending on December 31, 2010.” and inserting  
 12 “\$209,000,000 for fiscal year 2011.”.

13           (b) *ADMINISTRATIVE EXPENSES.*—Section  
 14 31104(i)(1)(G) of title 49, United States Code, is amended  
 15 by striking “\$61,036,000 for the period beginning on Octo-  
 16 ber 1, 2010, and ending on December 31, 2010.” and insert-  
 17 ing “\$244,144,000 for fiscal year 2011.”.

18           (c) *GRANT PROGRAMS.*—Section 4101(c) of  
 19 SAFETEA-LU (119 Stat. 1715) is amended—

20                   (1) in paragraph (1)—

21                           (A) by striking “and” after “2009,”; and

22                           (B) by striking “and \$6,301,000 for the pe-  
 23 riod beginning on October 1, 2010, and ending  
 24 on December 31, 2010” and inserting “and  
 25 \$25,000,000 for fiscal year 2011”;

1           (2) in paragraph (2) by striking “and  
2       \$8,066,000 for the period beginning on October 1,  
3       2010, and ending on December 31, 2010” and insert-  
4       ing “and \$32,000,000 for fiscal year 2011”;

5           (3) in paragraph (3) by striking “and  
6       \$1,260,000 for the period beginning on October 1,  
7       2010, and ending on December 31, 2010” and insert-  
8       ing “and \$5,000,000 for fiscal year 2011”;

9           (4) in paragraph (4) by striking “and  
10      \$6,301,000 for the period beginning on October 1,  
11      2010, and ending on December 31, 2010” and insert-  
12      ing “and \$25,000,000 for fiscal year 2011”; and

13          (5) in paragraph (5) by striking “and \$756,000  
14      for the period beginning on October 1, 2010, and end-  
15      ing on December 31, 2010” and inserting “and  
16      \$3,000,000 for fiscal year 2011”.

17          (d) *HIGH-PRIORITY ACTIVITIES*.—Section 31104(k)(2)  
18      of title 49, United States Code, is amended by striking “and  
19      \$3,781,000 for the period beginning on October 1, 2010, and  
20      ending on December 31, 2010” and inserting “and  
21      \$15,000,000 for fiscal year 2011”.

22          (e) *NEW ENTRANT AUDITS*.—Section 31144(g)(5)(B)  
23      of title 49, United States Code, is amended by striking  
24      “(and up to \$7,310,000 for the period beginning on October  
25      1, 2010, and ending on December 31, 2010)”.

1           (f) *COMMERCIAL DRIVER’S LICENSE INFORMATION*  
2 *SYSTEM MODERNIZATION.*—Section 4123(d)(6) of  
3 *SAFETEA–LU* (119 Stat. 1736) is amended by striking  
4 “\$2,016,000 for the period beginning on October 1, 2010,  
5 and ending on December 31, 2010.” and inserting  
6 “\$8,000,000 for fiscal year 2011.”.

7           (g) *OUTREACH AND EDUCATION.*—Section 4127(e) of  
8 *SAFETEA–LU* (119 Stat. 1741) is amended by striking  
9 “and 2010” and all that follows before “to carry out” and  
10 inserting “2010, and 2011”.

11           (h) *GRANT PROGRAM FOR COMMERCIAL MOTOR VEHI-*  
12 *CLE OPERATORS.*—Section 4134(c) of *SAFETEA–LU* (119  
13 Stat. 1744) is amended by striking “2009, 2010, and  
14 \$252,000 for the period beginning on October 1, 2010, and  
15 ending on December 31, 2010,” and inserting “2011”.

16           (i) *MOTOR CARRIER SAFETY ADVISORY COM-*  
17 *MITTEE.*—Section 4144(d) of *SAFETEA–LU* (119 Stat.  
18 1748) is amended by striking “December 31, 2010” and in-  
19 serting “September 30, 2011”.

20           (j) *WORKING GROUP FOR DEVELOPMENT OF PRAC-*  
21 *TICES AND PROCEDURES TO ENHANCE FEDERAL-STATE*  
22 *RELATIONS.*—Section 4213(d) of *SAFETEA–LU* (49  
23 U.S.C. 14710 note; 119 Stat. 1759) is amended by striking  
24 “December 31, 2010” and inserting “September 30, 2011”.

1 **SEC. 4203. ADDITIONAL PROGRAMS.**

2 (a) *HAZARDOUS MATERIALS RESEARCH PROJECTS.*—  
3 *Section 7131(c) of SAFETEA-LU (119 Stat. 1910) is*  
4 *amended by striking “through 2010” and all that follows*  
5 *before “shall be available” and inserting “through 2011”.*

6 (b) *DINGELL-JOHNSON SPORT FISH RESTORATION*  
7 *ACT.*—*Section 4 of the Dingell-Johnson Sport Fish Restora-*  
8 *tion Act (16 U.S.C. 777c) is amended—*

9 (1) *in subsection (a) by striking “For each of fis-*  
10 *cal years 2006” and all that follows before paragraph*  
11 *(1) and inserting the following: “For each of fiscal*  
12 *years 2006 through 2011, the balance of each annual*  
13 *appropriation made in accordance with the provi-*  
14 *sions of section 3 remaining after the distributions for*  
15 *administrative expenses and other purposes under*  
16 *subsection (b) and for multistate conservation grants*  
17 *under section 14 shall be distributed as follows:”;* and

18 (2) *in subsection (b)(1)(A) by striking the first*  
19 *sentence and inserting the following: “From the an-*  
20 *nuual appropriation made in accordance with section*  
21 *3, for each of fiscal years 2006 through 2011, the Sec-*  
22 *retary of the Interior may use no more than the*  
23 *amount specified in subparagraph (B) for the fiscal*  
24 *year for expenses for administration incurred in the*  
25 *implementation of this Act, in accordance with this*  
26 *section and section 9.”.*

1           (c) *SURFACE TRANSPORTATION PROJECT DELIVERY*  
 2 *PILOT PROGRAM.*—Section 327(i)(1) of title 23, United  
 3 States Code, is amended by striking “6 years after” and  
 4 inserting “7 years after”.

5           (d) *IMPLEMENTATION OF FUTURE STRATEGIC HIGH-*  
 6 *WAY RESEARCH PROGRAM.*—Section 510 of title 23, United  
 7 States Code, is amended by adding at the end the following:  
 8           “(h) *IMPLEMENTATION.*—Notwithstanding any other  
 9 provision of this section, the Secretary may use funds made  
 10 available to carry out this section for implementation of  
 11 research products related to the future strategic highway re-  
 12 search program, including development, demonstration,  
 13 evaluation, and technology transfer activities.”.

14                                   **TITLE III—PUBLIC**  
 15                                   **TRANSPORTATION PROGRAMS**

16 **SEC. 4301. ALLOCATION OF FUNDS FOR PLANNING PRO-**  
 17 **GRAMS.**

18           Section 5305(g) of title 49, United States Code, is  
 19 amended by striking “2010, and for the period beginning  
 20 October 1, 2010, and ending December 31, 2010,” and in-  
 21 serting “2011”.

22 **SEC. 4302. SPECIAL RULE FOR URBANIZED AREA FORMULA**  
 23 **GRANTS.**

24           Section 5307(b)(2) of title 49, United States Code, is  
 25 amended—

1           (1) *in the paragraph heading by striking “2010,*  
2 *AND THE PERIOD BEGINNING OCTOBER 1, 2010, AND*  
3 *ENDING DECEMBER 31, 2010” and inserting “2011”;*

4           (2) *in subparagraph (A) by striking “2010, and*  
5 *the period beginning October 1, 2010, and ending De-*  
6 *cember 31, 2010,” and inserting “2011,”; and*

7           (3) *in subparagraph (E)—*

8                 (A) *in the subparagraph heading by strik-*  
9 *ing “2010 AND DURING THE PERIOD BEGINNING*  
10 *OCTOBER 1, 2010, AND ENDING DECEMBER 31,*  
11 *2010” and inserting “2011”; and*

12                 (B) *in the matter preceding clause (i) by*  
13 *striking “In fiscal years 2008 through 2010, and*  
14 *during the period beginning October 1, 2010,*  
15 *and ending December 31, 2010,” and inserting*  
16 *“In each of fiscal years 2008 through 2011”.*

17 **SEC. 4303. ALLOCATING AMOUNTS FOR CAPITAL INVEST-**  
18 **MENT GRANTS.**

19           Section 5309(m) of title 49, United States Code, is  
20 *amended—*

21           (1) *in paragraph (2)—*

22                 (A) *in the paragraph heading by striking*  
23 *“2010 AND OCTOBER 1, 2010, THROUGH DECEM-*  
24 *BER 31, 2010” and inserting “2011”;*

1           (B) in the matter preceding subparagraph  
2 (A) by striking “2010, and during the period be-  
3 ginning October 1, 2010, and ending December  
4 31, 2010,” and inserting “2011”; and

5           (C) in subparagraph (A)(i) by striking  
6 “2010, and \$50,000,000 for the period beginning  
7 October 1, 2010, and ending December 31,  
8 2010,” and inserting “2011”;

9 (2) in paragraph (6)—

10           (A) in subparagraph (B) by striking “2010,  
11 and \$3,750,000 shall be available for the period  
12 beginning October 1, 2010, and ending December  
13 31, 2010,” and inserting “2011”; and

14           (B) in subparagraph (C) by striking “2010,  
15 and \$1,250,000 shall be available for the period  
16 beginning October 1, 2010 and ending December  
17 31, 2010,” and inserting “2011”; and

18 (3) in paragraph (7)—

19           (A) in subparagraph (A)—

20           (i) by striking “(A) FERRY BOAT SYS-  
21 TEMS.—” and all that follows through “(i)  
22 FISCAL YEAR 2006 THROUGH 2010.—  
23 \$10,000,000 shall be available in each of fis-  
24 cal years 2006 through 2010” and inserting  
25 the following:

1           “(A) *FERRY BOAT SYSTEMS*.—\$10,000,000  
2 shall be available in each of fiscal years 2006  
3 through 2011”;

4           (ii) by striking clause (ii);

5           (iii) by redesignating subclauses (I)  
6 through (VIII) as clauses (i) through (viii),  
7 respectively, and moving the text of such  
8 clauses 2 ems to the left; and

9           (iv) by inserting a period at the end of  
10 clause (iv) (as so redesignated);

11          (B) by striking subparagraph (B)(vi) and  
12 inserting the following:

13           “(vi) \$13,500,000 for fiscal year  
14 2011.”;

15          (C) in subparagraph (C) by striking “, and  
16 during the period beginning October 1, 2010,  
17 and ending December 31, 2010,”;

18          (D) in subparagraph (D) by striking “, and  
19 not less than \$8,750,000 shall be available for the  
20 period beginning October 1, 2010, and ending  
21 December 31, 2010,”; and

22          (E) in subparagraph (E) by striking “, and  
23 \$750,000 shall be available for the period begin-  
24 ning October 1, 2010, and ending December 31,  
25 2010.”.



1 **SEC. 4304. APPORTIONMENT OF FORMULA GRANTS FOR**  
2 **OTHER THAN URBANIZED AREAS.**

3 *Section 5311(c)(1)(F) of title 49, United States Code,*  
4 *is amended to read as follows:*

5 *“(F) \$15,000,000 for fiscal year 2011.”.*

6 **SEC. 4305. APPORTIONMENT BASED ON FIXED GUIDEWAY**  
7 **FACTORS.**

8 *Section 5337 of title 49, United States Code, is amend-*  
9 *ed—*

10 *(1) in subsection (a), in the matter preceding*  
11 *paragraph (1), by striking “2010” and inserting*  
12 *“2011”; and*

13 *(2) by striking subsection (g).*

14 **SEC. 4306. AUTHORIZATIONS FOR PUBLIC TRANSPOR-**  
15 **TATION.**

16 *(a) FORMULA AND BUS GRANTS.—Section 5338(b) of*  
17 *title 49, United States Code, is amended—*

18 *(1) by striking paragraph (1)(F) and inserting*  
19 *the following:*

20 *“(F) \$8,360,565,000 for fiscal year 2011.”;*

21 *and*

22 *(2) in paragraph (2)—*

23 *(A) in subparagraph (A) by striking*  
24 *“\$28,375,000 for the period beginning October 1,*  
25 *2010, and ending December 31, 2010,” and in-*  
26 *serting “\$113,500,000 for fiscal year 2011”;*

1           (B) in subparagraph (B) by striking  
2           “\$1,040,091,250 for the period beginning October  
3           1, 2010, and ending December 31, 2010,” and  
4           inserting “\$4,160,365,000 for fiscal year 2011”;

5           (C) in subparagraph (C) by striking  
6           “\$12,875,000 for the period beginning October 1,  
7           2010, and ending December 31, 2010,” and in-  
8           serting “\$51,500,000 for fiscal year 2011”;

9           (D) in subparagraph (D) by striking  
10          “\$416,625,000 for the period beginning October  
11          1, 2010 and ending December 31, 2010,” and in-  
12          serting “\$1,666,500,000 for fiscal year 2011”;

13          (E) in subparagraph (E) by striking  
14          “\$246,000,000 for the period beginning October  
15          1, 2010 and ending December 31, 2010,” and in-  
16          serting “\$984,000,000 for fiscal year 2011”;

17          (F) in subparagraph (F) by striking  
18          “\$33,375,000 for the period beginning October 1,  
19          2010 and ending December 31, 2010,” and in-  
20          serting “\$133,500,000 for fiscal year 2011”;

21          (G) in subparagraph (G) by striking  
22          “\$116,250,000 for the period beginning October  
23          1, 2010 and ending December 31, 2010,” and in-  
24          serting “\$465,000,000 for fiscal year 2011”;

1           *(H) in subparagraph (H) by striking*  
2           *“\$41,125,000 for the period beginning October 1,*  
3           *2010 and ending December 31, 2010,” and in-*  
4           *serting “\$164,500,000 for fiscal year 2011”;*

5           *(I) in subparagraph (I) by striking*  
6           *“\$23,125,000 for the period beginning October 1,*  
7           *2010 and ending December 31, 2010,” and in-*  
8           *serting “\$92,500,000 for fiscal year 2011”;*

9           *(J) in subparagraph (J) by striking*  
10          *“\$6,725,000 for the period beginning October 1,*  
11          *2010 and ending December 31, 2010,” and in-*  
12          *serting “\$26,900,000 for fiscal year 2011”;*

13          *(K) in subparagraph (K) by striking*  
14          *“\$875,000 for the period beginning October 1,*  
15          *2010 and ending December 31, 2010,” and in-*  
16          *serting “\$3,500,000 for fiscal year 2011”;*

17          *(L) in subparagraph (L) by striking*  
18          *“\$6,250,000 for the period beginning October 1,*  
19          *2010 and ending December 31, 2010,” and in-*  
20          *serting “\$25,000,000 for fiscal year 2011”;*

21          *(M) in subparagraph (M) by striking*  
22          *“\$116,250,000 for the period beginning October*  
23          *1, 2010 and ending December 31, 2010,” and in-*  
24          *serting “\$465,000,000 for fiscal year 2011”; and*

1           (N) in subparagraph (N) by striking  
2           “\$2,200,000 for the period beginning October 1,  
3           2010 and ending December 31, 2010,” and in-  
4           serting “\$8,800,000 for fiscal year 2011”.

5           (b) *CAPITAL INVESTMENT GRANTS*.—Section  
6 5338(c)(6) of title 49, United States Code, is amended to  
7 read as follows:

8           “(6) \$2,000,000,000 for fiscal year 2011.”.

9           (c) *RESEARCH AND UNIVERSITY RESEARCH CEN-*  
10 *TERS*.—Section 5338(d) of title 49, United States Code, is  
11 amended—

12           (1) in paragraph (1)—

13           (A) in the matter preceding subparagraph  
14 (A) by striking “\$17,437,500 for the period be-  
15 ginning October 1, 2010, and ending December  
16 31, 2010” and inserting “\$69,750,000 for fiscal  
17 year 2011”; and

18           (B) in subparagraph (A) by striking “fiscal  
19 year 2009” and inserting “each of fiscal years  
20 2009, 2010, and 2011”;

21           (2) in paragraph (2)(A)—

22           (A) in clauses (i), (ii), and (iii) by striking  
23 “2009” and inserting “2011”; and

1           (B) in clauses (v), (vi), (vii), and (viii) by  
2           striking “and 2009” and inserting “through  
3           2011”; and

4           (3) by striking paragraph (3) and inserting the  
5           following:

6           “(3) *FUNDING.*—If the Secretary determines that  
7           a project or activity described in paragraph (2) re-  
8           ceived sufficient funds in fiscal year 2010, or a pre-  
9           vious fiscal year, to carry out the purpose for which  
10          the project or activity was authorized, the Secretary  
11          may not allocate any amounts under paragraph (2)  
12          for the project or activity for fiscal year 2011, or any  
13          subsequent fiscal year.”.

14          (d) *ADMINISTRATION.*—Section 5338(e)(6) of title 49,  
15          United States Code, is amended to read as follows:

16                 “(6) \$98,911,000 for fiscal year 2011.”.

17         **SEC. 4307. AMENDMENTS TO SAFETEA-LU.**

18          (a) *CONTRACTED PARATRANSIT PILOT.*—Section  
19          3009(i)(1) of SAFETEA-LU (119 Stat. 1572) is amended  
20          by striking “2010, and for the period beginning October 1,  
21          2010, and ending December 31, 2010” and inserting  
22          “2011”.

23          (b) *PUBLIC-PRIVATE PARTNERSHIP PILOT PRO-*  
24          *GRAM.*—Section 3011 of SAFETEA-LU (49 U.S.C. 5309  
25          note; 119 Stat. 1588) is amended—

1           (1) in subsection (c)(5) by striking “2010 and  
2           the period beginning October 1, 2010, and ending De-  
3           cember 31, 2010” and inserting “2011”; and

4           (2) in subsection (d) by striking “2010, and for  
5           the period beginning October 1, 2010, and ending De-  
6           cember 31, 2010” and inserting “2011”.

7           (c) *ELDERLY INDIVIDUALS AND INDIVIDUALS WITH*  
8           *DISABILITIES PILOT PROGRAM.*—Section 3012(b)(8) of  
9           *SAFETEA-LU* (49 U.S.C. 5310 note; 119 Stat. 1593) is  
10          amended by striking “December 31, 2010” and inserting  
11          “September 30, 2011”.

12          (d) *OBLIGATION CEILING.*—Section 3040(7) of  
13          *SAFETEA-LU* (119 Stat. 1639) is amended to read as fol-  
14          lows:

15                 “(7) \$10,507,752,000 for fiscal year 2011, of  
16                 which not more than \$8,360,565,000 shall be from the  
17                 *Mass Transit Account.*”.

18          (e) *PROJECT AUTHORIZATIONS FOR NEW FIXED*  
19          *GUIDEWAY CAPITAL PROJECTS.*—Section 3043 of  
20          *SAFETEA-LU* (119 Stat. 1640) is amended—

21                 (1) in subsection (b), in the matter preceding  
22                 paragraph (1), by striking “2010, and for the period  
23                 beginning October 1, 2010, and ending December 31,  
24                 2010,” and inserting “2011”; and

1           (2) *in subsection (c), in the matter preceding*  
2           *paragraph (1), by striking “2010, and for the period*  
3           *beginning October 1, 2010, and ending December 31,*  
4           *2010,” and inserting “2011”.*

5           (f) *ALLOCATIONS FOR NATIONAL RESEARCH AND*  
6           *TECHNOLOGY PROGRAMS.—Section 3046 of SAFETEA-LU*  
7           *(49 U.S.C. 5338 note; 119 Stat. 1706) is amended—*

8           (1) *in subsection (b) by striking “or period”;*

9           (2) *by striking subsection (c) and inserting the*  
10          *following:*

11          “(c) *ADDITIONAL APPROPRIATIONS.—The Secretary*  
12          *shall allocate amounts appropriated pursuant to section*  
13          *5338(d) of title 49, United States Code, for national re-*  
14          *search and technology programs under sections 5312, 5314,*  
15          *and 5322 of such title for fiscal years 2010 and 2011, in*  
16          *amounts equal to the amounts allocated for fiscal year 2009*  
17          *under each of paragraphs (2), (3), (5), (6), and (8) through*  
18          *(25) of subsection (a).”;* and

19          (3) *in subsection (d)—*

20                  (A) *by striking “2009” and inserting*  
21                  *“2010”; and*

22                  (B) *by striking “2010” and inserting*  
23                  *“2011”.*

1 **SEC. 4308. LEVEL OF OBLIGATION LIMITATIONS.**

2 (a) *HIGHWAY CATEGORY*.—Section 8003(a) of  
3 *SAFETEA-LU* (2 U.S.C. 901 note; 119 Stat. 1917) is  
4 amended—

5 (1) in paragraph (6) by striking “for the period  
6 beginning on October 1, 2009, and ending on Sep-  
7 tember 30, 2010,” and inserting “for fiscal year  
8 2010,”; and

9 (2) by striking paragraph (7) and inserting the  
10 following:

11 “(7) for fiscal year 2011, \$42,469,970,178.”.

12 (b) *MASS TRANSIT CATEGORY*.—Section 8003(b) of  
13 *SAFETEA-LU* (2 U.S.C. 901 note; 119 Stat. 1917) is  
14 amended—

15 (1) in paragraph (6) by striking “for the period  
16 beginning on October 1, 2009, and ending on Decem-  
17 ber 31, 2010,” and inserting “for fiscal year 2010,”;  
18 and

19 (2) by striking paragraph (7) and inserting the  
20 following:

21 “(7) for fiscal year 2011, \$10,338,065,000.”.

22 **TITLE IV—EXTENSION OF**  
23 **EXPENDITURE AUTHORITY**

24 **SEC. 4401. EXTENSION OF EXPENDITURE AUTHORITY.**

25 (a) *HIGHWAY TRUST FUND*.—Section 9503 of the In-  
26 ternal Revenue Code of 1986 is amended—



1           (1) by striking “December 31, 2010 (January 1,  
2           2011, in the case of expenditures for administrative  
3           expenses)” in subsections (b)(6)(B) and (c)(1) and in-  
4           serting “October 1, 2011”;

5           (2) by striking “the Surface Transportation Ex-  
6           tension Act of 2010” in subsections (c)(1) and (e)(3)  
7           and inserting “the Surface Transportation Extension  
8           Act of 2010, Part II”; and

9           (3) by striking “January 1, 2011” in subsection  
10          (e)(3) and inserting “October 1, 2011”.

11          (b) *SPORT FISH RESTORATION AND BOATING TRUST*  
12 *FUND.*—Section 9504 of the Internal Revenue Code of 1986  
13 *is amended—*

14           (1) by striking “Surface Transportation Exten-  
15          sion Act of 2010” each place it appears in subsection  
16          (b)(2) and inserting “Surface Transportation Exten-  
17          sion Act of 2010, Part II”; and

18           (2) by striking “January 1, 2011” in subsection  
19          (d)(2) and inserting “October 1, 2011”.

20          (c) *EFFECTIVE DATE.*—The amendments made by this  
21 *section shall take effect on December 31, 2010.*

1           ***DIVISION C—AIRPORT AND***  
2                           ***AIRWAY EXTENSION***

3   ***SEC. 5001. SHORT TITLE.***

4           *This division may be cited as the “Airport and Airway*  
5 *Extension Act of 2010, Part IV”.*

6   ***SEC. 5002. EXTENSION OF TAXES FUNDING AIRPORT AND***  
7                           ***AIRWAY TRUST FUND.***

8           *(a) FUEL TAXES.—Subparagraph (B) of section*  
9 *4081(d)(2) of the Internal Revenue Code of 1986 is amended*  
10 *by striking “December 31, 2010” and inserting “September*  
11 *30, 2011”.*

12           *(b) TICKET TAXES.—*

13                   *(1) PERSONS.—Clause (i) of section*  
14 *4261(j)(1)(A) of the Internal Revenue Code of 1986 is*  
15 *amended by striking “December 31, 2010” and insert-*  
16 *ing “September 30, 2011”.*

17                   *(2) PROPERTY.—Clause (ii) of section*  
18 *4271(d)(1)(A) of such Code is amended by striking*  
19 *“December 31, 2010” and inserting “September 30,*  
20 *2011”.*

21           *(c) EFFECTIVE DATE.—The amendments made by this*  
22 *section shall take effect on January 1, 2011.*

1 **SEC. 5003. EXTENSION OF AIRPORT AND AIRWAY TRUST**  
2 **FUND EXPENDITURE AUTHORITY.**

3 (a) *IN GENERAL.*—Paragraph (1) of section 9502(d)  
4 of the Internal Revenue Code of 1986 is amended—

5 (1) by striking “January 1, 2011” and inserting  
6 “October 1, 2011”; and

7 (2) by inserting “or the Airport and Airway Ex-  
8 tension Act of 2010, Part IV” before the semicolon at  
9 the end of subparagraph (A).

10 (b) *CONFORMING AMENDMENT.*—Paragraph (2) of sec-  
11 tion 9502(e) of such Code is amended by striking “January  
12 1, 2011” and inserting “October 1, 2011”.

13 (c) *EFFECTIVE DATE.*—The amendments made by this  
14 section shall take effect on January 1, 2011.

15 **SEC. 5004. EXTENSION OF AIRPORT IMPROVEMENT PRO-**  
16 **GRAM.**

17 (a) *AUTHORIZATION OF APPROPRIATIONS.*—Section  
18 48103(8) of title 49, United States Code, is amended to read  
19 as follows:

20 “(8) \$3,700,000,000 for fiscal year 2011.”.

21 (b) *PROJECT GRANT AUTHORITY.*—Section 47104(c) of  
22 such title is amended by striking “December 31, 2010,” and  
23 inserting “September 30, 2011,”.

1 **SEC. 5005. EXTENSION OF EXPIRING AUTHORITIES.**

2       (a) Section 40117(l)(7) of title 49, United States Code,  
3 is amended by striking “January 1, 2011.” and inserting  
4 “October 1, 2011.”.

5       (b) Section 44302(f)(1) of such title is amended—

6           (1) by striking “December 31, 2010,” and insert-  
7 ing “September 30, 2011,”; and

8           (2) by striking “March 31, 2011,” and inserting  
9 “December 31, 2011,”.

10       (c) Section 44303(b) of such title is amended by strik-  
11 ing “March 31, 2011,” and inserting “December 31, 2011,”.

12       (d) Section 47107(s)(3) of such title is amended by  
13 striking “January 1, 2011.” and inserting “October 1,  
14 2011.”.

15       (e) Section 47115(j) of such title is amended by strik-  
16 ing “fiscal years 2004 through 2010, and for the portion  
17 of fiscal year 2011 ending before January 1, 2011,” and  
18 inserting “fiscal years 2004 through 2011,”.

19       (f) Section 47141(f) of such title is amended by strik-  
20 ing “December 31, 2010.” and inserting “September 30,  
21 2011.”.

22       (g) Section 49108 of such title is amended by striking  
23 “December 31, 2010,” and inserting “September 30, 2011,”.

24       (h) Section 161 of the Vision 100—Century of Avia-  
25 tion Reauthorization Act (49 U.S.C. 47109 note) is amend-  
26 ed by striking “fiscal year 2009 or 2010, or in the portion

1 of fiscal year 2011 ending before January 1, 2011,” and  
 2 inserting “fiscal year 2009, 2010, or 2011”.

3 (i) Section 186(d) of such Act (117 Stat. 2518) is  
 4 amended by striking “for fiscal years ending before October  
 5 1, 2010, and for the portion of fiscal year 2011 ending be-  
 6 fore January 1, 2011,” and inserting “for fiscal years end-  
 7 ing before October 1, 2011,”.

8 (j) The amendments made by this section shall take  
 9 effect on January 1, 2011.

## 10 **DIVISION D—FOOD SAFETY**

### 11 **SEC. 6001. SHORT TITLE; REFERENCES; TABLE OF CON-** 12 **TENTS.**

13 (a) *SHORT TITLE.*—This division may be cited as the  
 14 “*FDA Food Safety Modernization Act*”.

15 (b) *REFERENCES.*—Except as otherwise specified,  
 16 whenever in this division an amendment is expressed in  
 17 terms of an amendment to a section or other provision, the  
 18 reference shall be considered to be made to a section or other  
 19 provision of the *Federal Food, Drug, and Cosmetic Act* (21  
 20 U.S.C. 301 et seq.).

21 (c) *TABLE OF CONTENTS.*—The table of contents for  
 22 this division is as follows:

#### *DIVISION D—FOOD SAFETY*

*Sec. 6001. Short title; references; table of contents.*

#### *TITLE I—IMPROVING CAPACITY TO PREVENT FOOD SAFETY PROBLEMS*

*Sec. 6101. Inspections of records.*

- Sec. 6102. Registration of food facilities.*
- Sec. 6103. Hazard analysis and risk-based preventive controls.*
- Sec. 6104. Performance standards.*
- Sec. 6105. Standards for produce safety.*
- Sec. 6106. Protection against intentional adulteration.*
- Sec. 6107. Authority to collect fees.*
- Sec. 6108. National agriculture and food defense strategy.*
- Sec. 6109. Food and Agriculture Coordinating Councils.*
- Sec. 6110. Building domestic capacity.*
- Sec. 6111. Sanitary transportation of food.*
- Sec. 6112. Food allergy and anaphylaxis management.*
- Sec. 6113. New dietary ingredients.*
- Sec. 6114. Requirement for guidance relating to post-harvest processing of raw oysters.*
- Sec. 6115. Port shopping.*
- Sec. 6116. Alcohol-related facilities.*

**TITLE II—IMPROVING CAPACITY TO DETECT AND RESPOND TO  
FOOD SAFETY PROBLEMS**

- Sec. 6201. Targeting of inspection resources for domestic facilities, foreign facilities, and ports of entry; annual report.*
- Sec. 6202. Laboratory accreditation for analyses of foods.*
- Sec. 6203. Integrated consortium of laboratory networks.*
- Sec. 6204. Enhancing tracking and tracing of food and recordkeeping.*
- Sec. 6205. Surveillance.*
- Sec. 6206. Mandatory recall authority.*
- Sec. 6207. Administrative detention of food.*
- Sec. 6208. Decontamination and disposal standards and plans.*
- Sec. 6209. Improving the training of State, local, territorial, and tribal food safety officials.*
- Sec. 6210. Enhancing food safety.*
- Sec. 6211. Improving the reportable food registry.*

**TITLE III—IMPROVING THE SAFETY OF IMPORTED FOOD**

- Sec. 6301. Foreign supplier verification program.*
- Sec. 6302. Voluntary qualified importer program.*
- Sec. 6303. Authority to require import certifications for food.*
- Sec. 6304. Prior notice of imported food shipments.*
- Sec. 6305. Building capacity of foreign governments with respect to food safety.*
- Sec. 6306. Inspection of foreign food facilities.*
- Sec. 6307. Accreditation of third-party auditors.*
- Sec. 6308. Foreign offices of the Food and Drug Administration.*
- Sec. 6309. Smuggled food.*

**TITLE IV—MISCELLANEOUS PROVISIONS**

- Sec. 6401. Funding for food safety.*
- Sec. 6402. Employee protections.*
- Sec. 6403. Jurisdiction; authorities.*
- Sec. 6404. Compliance with international agreements.*
- Sec. 6405. Determination of budgetary effects.*

1 **TITLE I—IMPROVING CAPACITY**  
2 **TO PREVENT FOOD SAFETY**  
3 **PROBLEMS**

4 **SEC. 6101. INSPECTIONS OF RECORDS.**

5 (a) *IN GENERAL.*—Section 414(a) (21 U.S.C. 350c(a))  
6 *is amended—*

7 (1) *by striking the subsection heading and all*  
8 *that follows through “of food is” and inserting the fol-*  
9 *lowing: “RECORDS INSPECTION.—*

10 *“(1) ADULTERATED FOOD.—If the Secretary has*  
11 *a reasonable belief that an article of food, and any*  
12 *other article of food that the Secretary reasonably be-*  
13 *lieves is likely to be affected in a similar manner, is”;*

14 (2) *by inserting “, and to any other article of*  
15 *food that the Secretary reasonably believes is likely to*  
16 *be affected in a similar manner,” after “relating to*  
17 *such article”;*

18 (3) *by striking the last sentence; and*

19 (4) *by inserting at the end the following:*

20 *“(2) USE OF OR EXPOSURE TO FOOD OF CON-*  
21 *CERN.—If the Secretary believes that there is a rea-*  
22 *sonable probability that the use of or exposure to an*  
23 *article of food, and any other article of food that the*  
24 *Secretary reasonably believes is likely to be affected in*  
25 *a similar manner, will cause serious adverse health*

1       consequences or death to humans or animals, each  
2       person (excluding farms and restaurants) who manu-  
3       factures, processes, packs, distributes, receives, holds,  
4       or imports such article shall, at the request of an offi-  
5       cer or employee duly designated by the Secretary, per-  
6       mit such officer or employee, upon presentation of ap-  
7       propriate credentials and a written notice to such  
8       person, at reasonable times and within reasonable  
9       limits and in a reasonable manner, to have access to  
10      and copy all records relating to such article and to  
11      any other article of food that the Secretary reasonably  
12      believes is likely to be affected in a similar manner,  
13      that are needed to assist the Secretary in determining  
14      whether there is a reasonable probability that the use  
15      of or exposure to the food will cause serious adverse  
16      health consequences or death to humans or animals.

17           “(3) APPLICATION.—The requirement under  
18      paragraphs (1) and (2) applies to all records relating  
19      to the manufacture, processing, packing, distribution,  
20      receipt, holding, or importation of such article main-  
21      tained by or on behalf of such person in any format  
22      (including paper and electronic formats) and at any  
23      location.”.

24           (b) CONFORMING AMENDMENT.—Section 704(a)(1)(B)  
25      (21 U.S.C. 374(a)(1)(B)) is amended by striking “section



1 414 when” and all that follows through “subject to” and  
 2 inserting “section 414, when the standard for records in-  
 3 spection under paragraph (1) or (2) of section 414(a) ap-  
 4 plies, subject to”.

5 **SEC. 6102. REGISTRATION OF FOOD FACILITIES.**

6 (a) *UPDATING OF FOOD CATEGORY REGULATIONS; BI-*  
 7 *ENNIAL REGISTRATION RENEWAL.*—Section 415(a) (21  
 8 U.S.C. 350d(a)) is amended—

9 (1) in paragraph (2), by—

10 (A) striking “conducts business and” and  
 11 inserting “conducts business, the e-mail address  
 12 for the contact person of the facility or, in the  
 13 case of a foreign facility, the United States agent  
 14 for the facility, and”; and

15 (B) inserting “, or any other food categories  
 16 as determined appropriate by the Secretary, in-  
 17 cluding by guidance” after “Code of Federal  
 18 Regulations”;

19 (2) by redesignating paragraphs (3) and (4) as  
 20 paragraphs (4) and (5), respectively; and

21 (3) by inserting after paragraph (2) the fol-  
 22 lowing:

23 “(3) *BIENNIAL REGISTRATION RENEWAL.*—Dur-  
 24 ing the period beginning on October 1 and ending on  
 25 December 31 of each even-numbered year, a registrant

1       *that has submitted a registration under paragraph*  
2       *(1) shall submit to the Secretary a renewal registra-*  
3       *tion containing the information described in para-*  
4       *graph (2). The Secretary shall provide for an abbrevi-*  
5       *ated registration renewal process for any registrant*  
6       *that has not had any changes to such information*  
7       *since the registrant submitted the preceding registra-*  
8       *tion or registration renewal for the facility involved.”.*

9       ***(b) SUSPENSION OF REGISTRATION.—***

10               ***(1) IN GENERAL.—****Section 415 (21 U.S.C. 350d)*  
11       *is amended—*

12               ***(A)*** *in subsection (a)(2), by inserting after*  
13       *the first sentence the following: “The registration*  
14       *shall contain an assurance that the Secretary*  
15       *will be permitted to inspect such facility at the*  
16       *times and in the manner permitted by this*  
17       *Act.”;*

18               ***(B)*** *by redesignating subsections (b) and (c)*  
19       *as subsections (c) and (d), respectively; and*

20               ***(C)*** *by inserting after subsection (a) the fol-*  
21       *lowing:*

22       ***“(b) SUSPENSION OF REGISTRATION.—***

23               ***(1) IN GENERAL.—****If the Secretary determines*  
24       *that food manufactured, processed, packed, received,*  
25       *or held by a facility registered under this section has*

1     *a reasonable probability of causing serious adverse*  
2     *health consequences or death to humans or animals,*  
3     *the Secretary may by order suspend the registration*  
4     *of a facility—*

5             *“(A) that created, caused, or was otherwise*  
6             *responsible for such reasonable probability; or*

7             *“(B)(i) that knew of, or had reason to know*  
8             *of, such reasonable probability; and*

9             *“(ii) packed, received, or held such food.*

10            *“(2) HEARING ON SUSPENSION.—The Secretary*  
11            *shall provide the registrant subject to an order under*  
12            *paragraph (1) with an opportunity for an informal*  
13            *hearing, to be held as soon as possible but not later*  
14            *than 2 business days after the issuance of the order*  
15            *or such other time period, as agreed upon by the Sec-*  
16            *retary and the registrant, on the actions required for*  
17            *reinstatement of registration and why the registration*  
18            *that is subject to suspension should be reinstated. The*  
19            *Secretary shall reinstate a registration if the Sec-*  
20            *retary determines, based on evidence presented, that*  
21            *adequate grounds do not exist to continue the suspen-*  
22            *sion of the registration.*

23            *“(3) POST-HEARING CORRECTIVE ACTION PLAN;*  
24            *VACATING OF ORDER.—*

1           “(A) *CORRECTIVE ACTION PLAN.*—If, after  
2           *providing opportunity for an informal hearing*  
3           *under paragraph (2), the Secretary determines*  
4           *that the suspension of registration remains nec-*  
5           *essary, the Secretary shall require the registrant*  
6           *to submit a corrective action plan to demonstrate*  
7           *how the registrant plans to correct the conditions*  
8           *found by the Secretary. The Secretary shall re-*  
9           *view such plan not later than 14 days after the*  
10           *submission of the corrective action plan or such*  
11           *other time period as determined by the Sec-*  
12           *retary.*

13           “(B) *VACATING OF ORDER.*—Upon a deter-  
14           *mination by the Secretary that adequate grounds*  
15           *do not exist to continue the suspension actions*  
16           *required by the order, or that such actions should*  
17           *be modified, the Secretary shall promptly vacate*  
18           *the order and reinstate the registration of the fa-*  
19           *cility subject to the order or modify the order, as*  
20           *appropriate.*

21           “(4) *EFFECT OF SUSPENSION.*—If the registra-  
22           *tion of a facility is suspended under this subsection,*  
23           *no person shall import or export food into the United*  
24           *States from such facility, offer to import or export*  
25           *food into the United States from such facility, or oth-*

1 *erwise introduce food from such facility into inter-*  
2 *state or intrastate commerce in the United States.*

3 “(5) *REGULATIONS.*—

4 “(A) *IN GENERAL.*—*The Secretary shall*  
5 *promulgate regulations to implement this sub-*  
6 *section. The Secretary may promulgate such reg-*  
7 *ulations on an interim final basis.*

8 “(B) *REGISTRATION REQUIREMENT.*—*The*  
9 *Secretary may require that registration under*  
10 *this section be submitted in an electronic format.*  
11 *Such requirement may not take effect before the*  
12 *date that is 5 years after the date of enactment*  
13 *of the FDA Food Safety Modernization Act.*

14 “(6) *APPLICATION DATE.*—*Facilities shall be*  
15 *subject to the requirements of this subsection begin-*  
16 *ning on the earlier of—*

17 “(A) *the date on which the Secretary issues*  
18 *regulations under paragraph (5); or*

19 “(B) *180 days after the date of enactment*  
20 *of the FDA Food Safety Modernization Act.*

21 “(7) *NO DELEGATION.*—*The authority conferred*  
22 *by this subsection to issue an order to suspend a reg-*  
23 *istration or vacate an order of suspension shall not*  
24 *be delegated to any officer or employee other than the*  
25 *Commissioner.”.*

1           (2) *SMALL ENTITY COMPLIANCE POLICY*  
2 *GUIDE.*—Not later than 180 days after the issuance of  
3 *the regulations promulgated under section 415(b)(5)*  
4 *of the Federal Food, Drug, and Cosmetic Act (as*  
5 *added by this section), the Secretary shall issue a*  
6 *small entity compliance policy guide setting forth in*  
7 *plain language the requirements of such regulations to*  
8 *assist small entities in complying with registration*  
9 *requirements and other activities required under such*  
10 *section.*

11           (3) *IMPORTED FOOD.*—Section 801(l) (21 U.S.C.  
12 *381(l)) is amended by inserting “(or for which a reg-*  
13 *istration has been suspended under such section)”*  
14 *after “section 415”.*

15           (c) *CLARIFICATION OF INTENT.*—

16           (1) *RETAIL FOOD ESTABLISHMENT.*—The Sec-  
17 *retary shall amend the definition of the term “retail*  
18 *food establishment” in section 1.227(b)(11) of title 21,*  
19 *Code of Federal Regulations to clarify that, in deter-*  
20 *mining the primary function of an establishment or*  
21 *a retail food establishment under such section, the sale*  
22 *of food products directly to consumers by such estab-*  
23 *lishment and the sale of food directly to consumers by*  
24 *such retail food establishment include—*

1           (A) the sale of such food products or food di-  
2           rectly to consumers by such establishment at a  
3           roadside stand or farmers' market where such  
4           stand or market is located other than where the  
5           food was manufactured or processed;

6           (B) the sale and distribution of such food  
7           through a community supported agriculture pro-  
8           gram; and

9           (C) the sale and distribution of such food at  
10          any other such direct sales platform as deter-  
11          mined by the Secretary.

12          (2) *DEFINITIONS.*—For purposes of paragraph  
13          (1)—

14               (A) the term “community supported agri-  
15               culture program” has the same meaning given  
16               the term “community supported agriculture  
17               (CSA) program” in section 249.2 of title 7, Code  
18               of Federal Regulations (or any successor regula-  
19               tion); and

20               (B) the term “consumer” does not include a  
21               business.

22          (d) *CONFORMING AMENDMENTS.*—

23               (1) Section 301(d) (21 U.S.C. 331(d)) is amend-  
24               ed by inserting “415,” after “404,”.

1           (2) *Section 415(d), as redesignated by subsection*  
2           *(b), is amended by adding at the end before the period*  
3           *“for a facility to be registered, except with respect to*  
4           *the reinstatement of a registration that is suspended*  
5           *under subsection (b)”.*

6 **SEC. 6103. HAZARD ANALYSIS AND RISK-BASED PREVEN-**  
7           **TIVE CONTROLS.**

8           (a) *IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.)*  
9           *is amended by adding at the end the following:*

10 **“SEC. 418. HAZARD ANALYSIS AND RISK-BASED PREVEN-**  
11           **TIVE CONTROLS.**

12           *“(a) IN GENERAL.—The owner, operator, or agent in*  
13           *charge of a facility shall, in accordance with this section,*  
14           *evaluate the hazards that could affect food manufactured,*  
15           *processed, packed, or held by such facility, identify and im-*  
16           *plement preventive controls to significantly minimize or*  
17           *prevent the occurrence of such hazards and provide assur-*  
18           *ances that such food is not adulterated under section 402*  
19           *or misbranded under section 403(w), monitor the perform-*  
20           *ance of those controls, and maintain records of this moni-*  
21           *toring as a matter of routine practice.*

22           *“(b) HAZARD ANALYSIS.—The owner, operator, or*  
23           *agent in charge of a facility shall—*



1           “(1) identify and evaluate known or reasonably  
2       foreseeable hazards that may be associated with the  
3       facility, including—

4                   “(A) biological, chemical, physical, and ra-  
5       diological hazards, natural toxins, pesticides,  
6       drug residues, decomposition, parasites, aller-  
7       gens, and unapproved food and color additives;  
8       and

9                   “(B) hazards that occur naturally, or may  
10      be unintentionally introduced; and

11           “(2) identify and evaluate hazards that may be  
12      intentionally introduced, including by acts of ter-  
13      rorism; and

14           “(3) develop a written analysis of the hazards.

15           “(c) PREVENTIVE CONTROLS.—The owner, operator, or  
16      agent in charge of a facility shall identify and implement  
17      preventive controls, including at critical control points, if  
18      any, to provide assurances that—

19                   “(1) hazards identified in the hazard analysis  
20      conducted under subsection (b)(1) will be significantly  
21      minimized or prevented;

22                   “(2) any hazards identified in the hazard anal-  
23      ysis conducted under subsection (b)(2) will be signifi-  
24      cantly minimized or prevented and addressed, con-  
25      sistent with section 420, as applicable; and

1           “(3) *the food manufactured, processed, packed, or*  
2           *held by such facility will not be adulterated under*  
3           *section 402 or misbranded under section 403(w).*

4           “(d) *MONITORING OF EFFECTIVENESS.—The owner,*  
5           *operator, or agent in charge of a facility shall monitor the*  
6           *effectiveness of the preventive controls implemented under*  
7           *subsection (c) to provide assurances that the outcomes de-*  
8           *scribed in subsection (c) shall be achieved.*

9           “(e) *CORRECTIVE ACTIONS.—The owner, operator, or*  
10           *agent in charge of a facility shall establish procedures to*  
11           *ensure that, if the preventive controls implemented under*  
12           *subsection (c) are not properly implemented or are found*  
13           *to be ineffective—*

14           “(1) *appropriate action is taken to reduce the*  
15           *likelihood of recurrence of the implementation failure;*

16           “(2) *all affected food is evaluated for safety; and*

17           “(3) *all affected food is prevented from entering*  
18           *into commerce if the owner, operator, or agent in*  
19           *charge of such facility cannot ensure that the affected*  
20           *food is not adulterated under section 402 or mis-*  
21           *branded under section 403(w).*

22           “(f) *VERIFICATION.—The owner, operator, or agent in*  
23           *charge of a facility shall verify that—*

1           “(1) the preventive controls implemented under  
2           subsection (c) are adequate to control the hazards  
3           identified under subsection (b);

4           “(2) the owner, operator, or agent is conducting  
5           monitoring in accordance with subsection (d);

6           “(3) the owner, operator, or agent is making ap-  
7           propriate decisions about corrective actions taken  
8           under subsection (e);

9           “(4) the preventive controls implemented under  
10          subsection (c) are effectively and significantly mini-  
11          mizing or preventing the occurrence of identified haz-  
12          ards, including through the use of environmental and  
13          product testing programs and other appropriate  
14          means; and

15          “(5) there is documented, periodic reanalysis of  
16          the plan under subsection (i) to ensure that the plan  
17          is still relevant to the raw materials, conditions, and  
18          processes in the facility, and new and emerging  
19          threats.

20          “(g) *RECORDKEEPING.*—The owner, operator, or agent  
21          in charge of a facility shall maintain, for not less than 2  
22          years, records documenting the monitoring of the preventive  
23          controls implemented under subsection (c), instances of non-  
24          conformance material to food safety, the results of testing  
25          and other appropriate means of verification under sub-

1 *section (f)(4), instances when corrective actions were imple-*  
2 *mented, and the efficacy of preventive controls and correc-*  
3 *tive actions.*

4       “(h) *WRITTEN PLAN AND DOCUMENTATION.*—*The*  
5 *owner, operator, or agent in charge of a facility shall pre-*  
6 *pare a written plan that documents and describes the proce-*  
7 *dures used by the facility to comply with the requirements*  
8 *of this section, including analyzing the hazards under sub-*  
9 *section (b) and identifying the preventive controls adopted*  
10 *under subsection (c) to address those hazards. Such written*  
11 *plan, together with the documentation described in sub-*  
12 *section (g), shall be made promptly available to a duly au-*  
13 *thorized representative of the Secretary upon oral or written*  
14 *request.*

15       “(i) *REQUIREMENT TO REANALYZE.*—*The owner, op-*  
16 *erator, or agent in charge of a facility shall conduct a rea-*  
17 *nalys is under subsection (b) whenever a significant change*  
18 *is made in the activities conducted at a facility operated*  
19 *by such owner, operator, or agent if the change creates a*  
20 *reasonable potential for a new hazard or a significant in-*  
21 *crease in a previously identified hazard or not less fre-*  
22 *quently than once every 3 years, whichever is earlier. Such*  
23 *reanalysis shall be completed and additional preventive*  
24 *controls needed to address the hazard identified, if any,*  
25 *shall be implemented before the change in activities at the*

1 *facility is operative. Such owner, operator, or agent shall*  
2 *revise the written plan required under subsection (h) if such*  
3 *a significant change is made or document the basis for the*  
4 *conclusion that no additional or revised preventive controls*  
5 *are needed. The Secretary may require a reanalysis under*  
6 *this section to respond to new hazards and developments*  
7 *in scientific understanding, including, as appropriate, re-*  
8 *sults from the Department of Homeland Security biological,*  
9 *chemical, radiological, or other terrorism risk assessment.*

10       “(j) *EXEMPTION FOR SEAFOOD, JUICE, AND LOW-ACID*  
11 *CANNED FOOD FACILITIES SUBJECT TO HACCP.—*

12               “(1) *IN GENERAL.—This section shall not apply*  
13 *to a facility if the owner, operator, or agent in charge*  
14 *of such facility is required to comply with, and is in*  
15 *compliance with, 1 of the following standards and*  
16 *regulations with respect to such facility:*

17                       “(A) *The Seafood Hazard Analysis Critical*  
18 *Control Points Program of the Food and Drug*  
19 *Administration.*

20                       “(B) *The Juice Hazard Analysis Critical*  
21 *Control Points Program of the Food and Drug*  
22 *Administration.*

23                       “(C) *The Thermally Processed Low-Acid*  
24 *Foods Packaged in Hermetically Sealed Con-*

1            *tainers standards of the Food and Drug Admin-*  
2            *istration (or any successor standards).*

3            “(2) *APPLICABILITY.*—*The exemption under*  
4            *paragraph (1)(C) shall apply only with respect to*  
5            *microbiological hazards that are regulated under the*  
6            *standards for Thermally Processed Low-Acid Foods*  
7            *Packaged in Hermetically Sealed Containers under*  
8            *part 113 of chapter 21, Code of Federal Regulations*  
9            *(or any successor regulations).*

10          “(k) *EXCEPTION FOR ACTIVITIES OF FACILITIES SUB-*  
11          *JECT TO SECTION 419.*—*This section shall not apply to ac-*  
12          *tivities of a facility that are subject to section 419.*

13          “(l) *MODIFIED REQUIREMENTS FOR QUALIFIED FA-*  
14          *CILITIES.*—

15                  “(1) *QUALIFIED FACILITIES.*—

16                          “(A) *IN GENERAL.*—*A facility is a qualified*  
17                          *facility for purposes of this subsection if the fa-*  
18                          *cility meets the conditions under subparagraph*  
19                          *(B) or (C).*

20                          “(B) *VERY SMALL BUSINESS.*—*A facility is*  
21                          *a qualified facility under this subparagraph—*

22                                  “(i) *if the facility, including any sub-*  
23                                  *sidary or affiliate of the facility, is, collec-*  
24                                  *tively, a very small business (as defined in*

1           *the regulations promulgated under sub-*  
2           *section (n)); and*

3           “(ii) *in the case where the facility is a*  
4           *subsidiary or affiliate of an entity, if such*  
5           *subsidiaries or affiliates, are, collectively, a*  
6           *very small business (as so defined).*

7           “(C) *LIMITED ANNUAL MONETARY VALUE OF*  
8           *SALES.—*

9           “(i) *IN GENERAL.—A facility is a*  
10           *qualified facility under this subparagraph*  
11           *if clause (ii) applies—*

12           “(I) *to the facility, including any*  
13           *subsidiary or affiliate of the facility,*  
14           *collectively; and*

15           “(II) *to the subsidiaries or affili-*  
16           *ates, collectively, of any entity of which*  
17           *the facility is a subsidiary or affiliate.*

18           “(ii) *AVERAGE ANNUAL MONETARY*  
19           *VALUE.—This clause applies if—*

20           “(I) *during the 3-year period pre-*  
21           *ceding the applicable calendar year,*  
22           *the average annual monetary value of*  
23           *the food manufactured, processed,*  
24           *packed, or held at such facility (or the*  
25           *collective average annual monetary*

1            *value of such food at any subsidiary or*  
2            *affiliate, as described in clause (i))*  
3            *that is sold directly to qualified end-*  
4            *users during such period exceeded the*  
5            *average annual monetary value of the*  
6            *food manufactured, processed, packed,*  
7            *or held at such facility (or the collec-*  
8            *tive average annual monetary value of*  
9            *such food at any subsidiary or affil-*  
10           *iate, as so described) sold by such facil-*  
11           *ity (or collectively by any such sub-*  
12           *subsidiary or affiliate) to all other pur-*  
13           *chasers during such period; and*

14                    *“(II) the average annual mone-*  
15                    *tary value of all food sold by such fa-*  
16                    *cility (or the collective average annual*  
17                    *monetary value of such food sold by*  
18                    *any subsidiary or affiliate, as de-*  
19                    *scribed in clause (i)) during such pe-*  
20                    *riod was less than \$500,000, adjusted*  
21                    *for inflation.*

22            *“(2) EXEMPTION.—A qualified facility—*

23                    *“(A) shall not be subject to the requirements*  
24                    *under subsections (a) through (i) and subsection*  
25                    *(n) in an applicable calendar year; and*



1           “(B) shall submit to the Secretary—

2                   “(i)(I) documentation that dem-  
3                   onstrates that the owner, operator, or agent  
4                   in charge of the facility has identified po-  
5                   tential hazards associated with the food  
6                   being produced, is implementing preventive  
7                   controls to address the hazards, and is mon-  
8                   itoring the preventive controls to ensure  
9                   that such controls are effective; or

10                   “(II) documentation (which may in-  
11                   clude licenses, inspection reports, certifi-  
12                   cates, permits, credentials, certification by  
13                   an appropriate agency (such as a State de-  
14                   partment of agriculture), or other evidence  
15                   of oversight), as specified by the Secretary,  
16                   that the facility is in compliance with  
17                   State, local, county, or other applicable  
18                   non-Federal food safety law; and

19                   “(ii) documentation, as specified by the  
20                   Secretary in a guidance document issued  
21                   not later than 1 year after the date of enact-  
22                   ment of this section, that the facility is a  
23                   qualified facility under paragraph (1)(B) or  
24                   (1)(C).

25                   “(3) WITHDRAWAL; RULE OF CONSTRUCTION.—

1           “(A) *IN GENERAL.*—*In the event of an ac-*  
2           *tive investigation of a foodborne illness outbreak*  
3           *that is directly linked to a qualified facility sub-*  
4           *ject to an exemption under this subsection, or if*  
5           *the Secretary determines that it is necessary to*  
6           *protect the public health and prevent or mitigate*  
7           *a foodborne illness outbreak based on conduct or*  
8           *conditions associated with a qualified facility*  
9           *that are material to the safety of the food manu-*  
10           *factured, processed, packed, or held at such facil-*  
11           *ity, the Secretary may withdraw the exemption*  
12           *provided to such facility under this subsection.*

13           “(B) *RULE OF CONSTRUCTION.*—*Nothing in*  
14           *this subsection shall be construed to expand or*  
15           *limit the inspection authority of the Secretary.*

16           “(4) *DEFINITIONS.*—*In this subsection:*

17           “(A) *AFFILIATE.*—*The term ‘affiliate’*  
18           *means any facility that controls, is controlled by,*  
19           *or is under common control with another facil-*  
20           *ity.*

21           “(B) *QUALIFIED END-USER.*—*The term*  
22           *‘qualified end-user’, with respect to a food,*  
23           *means—*

24                   “(i) *the consumer of the food; or*

1           “(ii) a restaurant or retail food estab-  
2           lishment (as those terms are defined by the  
3           Secretary for purposes of section 415)  
4           that—

5                   “(I) is located—

6                           “(aa) in the same State as  
7                           the qualified facility that sold the  
8                           food to such restaurant or estab-  
9                           lishment; or

10                           “(bb) not more than 275  
11                           miles from such facility; and

12                           “(II) is purchasing the food for  
13                           sale directly to consumers at such res-  
14                           taurant or retail food establishment.

15                   “(C) CONSUMER.—For purposes of subpara-  
16                   graph (B), the term ‘consumer’ does not include  
17                   a business.

18                   “(D) SUBSIDIARY.—The term ‘subsidiary’  
19                   means any company which is owned or con-  
20                   trolled directly or indirectly by another com-  
21                   pany.

22                   “(5) STUDY.—

23                           “(A) IN GENERAL.—The Secretary, in con-  
24                           sultation with the Secretary of Agriculture, shall

1           *conduct a study of the food processing sector reg-*  
2           *ulated by the Secretary to determine—*

3                   “(i) *the distribution of food production*  
4                   *by type and size of operation, including*  
5                   *monetary value of food sold;*

6                   “(ii) *the proportion of food produced*  
7                   *by each type and size of operation;*

8                   “(iii) *the number and types of food fa-*  
9                   *ilities co-located on farms, including the*  
10                   *number and proportion by commodity and*  
11                   *by manufacturing or processing activity;*

12                   “(iv) *the incidence of foodborne illness*  
13                   *originating from each size and type of oper-*  
14                   *ation and the type of food facilities for*  
15                   *which no reported or known hazard exists;*  
16                   *and*

17                   “(v) *the effect on foodborne illness risk*  
18                   *associated with commingling, processing,*  
19                   *transporting, and storing food and raw ag-*  
20                   *ricultural commodities, including dif-*  
21                   *ferences in risk based on the scale and dura-*  
22                   *tion of such activities.*

23                   “(B) *SIZE.—The results of the study con-*  
24                   *ducted under subparagraph (A) shall include the*  
25                   *information necessary to enable the Secretary to*

1           *define the terms ‘small business’ and ‘very small*  
2           *business’, for purposes of promulgating the regu-*  
3           *lation under subsection (n). In defining such*  
4           *terms, the Secretary shall include consideration*  
5           *of harvestable acres, income, the number of em-*  
6           *ployees, and the volume of food harvested.*

7           “(C) *SUBMISSION OF REPORT.*—*Not later*  
8           *than 18 months after the date of enactment the*  
9           *FDA Food Safety Modernization Act, the Sec-*  
10          *retary shall submit to Congress a report that de-*  
11          *scribes the results of the study conducted under*  
12          *subparagraph (A).*

13          “(6) *NO PREEMPTION.*—*Nothing in this sub-*  
14          *section preempts State, local, county, or other non-*  
15          *Federal law regarding the safe production of food.*  
16          *Compliance with this subsection shall not relieve any*  
17          *person from liability at common law or under State*  
18          *statutory law.*

19          “(7) *NOTIFICATION TO CONSUMERS.*—

20                 “(A) *IN GENERAL.*—*A qualified facility that*  
21                 *is exempt from the requirements under sub-*  
22                 *sections (a) through (i) and subsection (n) and*  
23                 *does not prepare documentation under para-*  
24                 *graph (2)(B)(i)(I) shall—*

1           “(i) *with respect to a food for which a*  
2           *food packaging label is required by the Sec-*  
3           *retary under any other provision of this*  
4           *Act, include prominently and conspicuously*  
5           *on such label the name and business address*  
6           *of the facility where the food was manufac-*  
7           *tured or processed; or*

8           “(ii) *with respect to a food for which*  
9           *a food packaging label is not required by*  
10           *the Secretary under any other provisions of*  
11           *this Act, prominently and conspicuously*  
12           *display, at the point of purchase, the name*  
13           *and business address of the facility where*  
14           *the food was manufactured or processed, on*  
15           *a label, poster, sign, placard, or documents*  
16           *delivered contemporaneously with the food*  
17           *in the normal course of business, or, in the*  
18           *case of Internet sales, in an electronic no-*  
19           *tice.*

20           “(B) *NO ADDITIONAL LABEL.—Subpara-*  
21           *graph (A) does not provide authority to the Sec-*  
22           *retary to require a label that is in addition to*  
23           *any label required under any other provision of*  
24           *this Act.*

1       “(m) *AUTHORITY WITH RESPECT TO CERTAIN FACILI-*  
2 *TIES.*—*The Secretary may, by regulation, exempt or modify*  
3 *the requirements for compliance under this section with re-*  
4 *spect to facilities that are solely engaged in the production*  
5 *of food for animals other than man, the storage of raw agri-*  
6 *cultural commodities (other than fruits and vegetables) in-*  
7 *tended for further distribution or processing, or the storage*  
8 *of packaged foods that are not exposed to the environment.*

9       “(n) *REGULATIONS.*—

10           “(1) *IN GENERAL.*—*Not later than 18 months*  
11 *after the date of enactment of the FDA Food Safety*  
12 *Modernization Act, the Secretary shall promulgate*  
13 *regulations—*

14                   “(A) *to establish science-based minimum*  
15 *standards for conducting a hazard analysis, doc-*  
16 *umenting hazards, implementing preventive con-*  
17 *trols, and documenting the implementation of*  
18 *the preventive controls under this section; and*

19                   “(B) *to define, for purposes of this section,*  
20 *the terms ‘small business’ and ‘very small busi-*  
21 *ness’, taking into consideration the study de-*  
22 *scribed in subsection (l)(5).*

23           “(2) *COORDINATION.*—*In promulgating the regu-*  
24 *lations under paragraph (1)(A), with regard to haz-*  
25 *ards that may be intentionally introduced, including*

1 *by acts of terrorism, the Secretary shall coordinate*  
2 *with the Secretary of Homeland Security, as appro-*  
3 *priate.*

4 “(3) *CONTENT.—The regulations promulgated*  
5 *under paragraph (1)(A) shall—*

6 “(A) *provide sufficient flexibility to be prac-*  
7 *ticable for all sizes and types of facilities, includ-*  
8 *ing small businesses such as a small food proc-*  
9 *essing facility co-located on a farm;*

10 “(B) *comply with chapter 35 of title 44,*  
11 *United States Code (commonly known as the*  
12 *‘Paperwork Reduction Act’), with special atten-*  
13 *tion to minimizing the burden (as defined in sec-*  
14 *tion 3502(2) of such Act) on the facility, and col-*  
15 *lection of information (as defined in section*  
16 *3502(3) of such Act), associated with such regu-*  
17 *lations;*

18 “(C) *acknowledge differences in risk and*  
19 *minimize, as appropriate, the number of sepa-*  
20 *rate standards that apply to separate foods; and*

21 “(D) *not require a facility to hire a consult-*  
22 *ant or other third party to identify, implement,*  
23 *certify, or audit preventative controls, except in*  
24 *the case of negotiated enforcement resolutions*



1           *that may require such a consultant or third*  
2           *party.*

3           “(4) *RULE OF CONSTRUCTION.*—*Nothing in this*  
4           *subsection shall be construed to provide the Secretary*  
5           *with the authority to prescribe specific technologies,*  
6           *practices, or critical controls for an individual facil-*  
7           *ity.*

8           “(5) *REVIEW.*—*In promulgating the regulations*  
9           *under paragraph (1)(A), the Secretary shall review*  
10           *regulatory hazard analysis and preventive control*  
11           *programs in existence on the date of enactment of the*  
12           *FDA Food Safety Modernization Act, including the*  
13           *Grade ‘A’ Pasteurized Milk Ordinance to ensure that*  
14           *such regulations are consistent, to the extent prac-*  
15           *ticable, with applicable domestic and internationally*  
16           *recognized standards in existence on such date.*

17           “(o) *DEFINITIONS.*—*For purposes of this section:*

18           “(1) *CRITICAL CONTROL POINT.*—*The term ‘crit-*  
19           *ical control point’ means a point, step, or procedure*  
20           *in a food process at which control can be applied and*  
21           *is essential to prevent or eliminate a food safety haz-*  
22           *ard or reduce such hazard to an acceptable level.*

23           “(2) *FACILITY.*—*The term ‘facility’ means a do-*  
24           *mestic facility or a foreign facility that is required to*  
25           *register under section 415.*

1           “(3) *PREVENTIVE CONTROLS.*—*The term ‘preven-*  
2           *tive controls’ means those risk-based, reasonably ap-*  
3           *propriate procedures, practices, and processes that a*  
4           *person knowledgeable about the safe manufacturing,*  
5           *processing, packing, or holding of food would employ*  
6           *to significantly minimize or prevent the hazards iden-*  
7           *tified under the hazard analysis conducted under sub-*  
8           *section (b) and that are consistent with the current*  
9           *scientific understanding of safe food manufacturing,*  
10           *processing, packing, or holding at the time of the*  
11           *analysis. Those procedures, practices, and processes*  
12           *may include the following:*

13                   “(A) *Sanitation procedures for food contact*  
14                   *surfaces and utensils and food-contact surfaces of*  
15                   *equipment.*

16                   “(B) *Supervisor, manager, and employee*  
17                   *hygiene training.*

18                   “(C) *An environmental monitoring pro-*  
19                   *gram to verify the effectiveness of pathogen con-*  
20                   *trols in processes where a food is exposed to a po-*  
21                   *tential contaminant in the environment.*

22                   “(D) *A food allergen control program.*

23                   “(E) *A recall plan.*

1                   “(F) *Current Good Manufacturing Practices*  
2                   *(cGMPs) under part 110 of title 21, Code of Fed-*  
3                   *eral Regulations (or any successor regulations).*

4                   “(G) *Supplier verification activities that re-*  
5                   *late to the safety of food.*”.

6                   (b) *GUIDANCE DOCUMENT.—The Secretary shall issue*  
7                   *a guidance document related to the regulations promulgated*  
8                   *under subsection (b)(1) with respect to the hazard analysis*  
9                   *and preventive controls under section 418 of the Federal*  
10                  *Food, Drug, and Cosmetic Act (as added by subsection (a)).*

11                  (c) *RULEMAKING.—*

12                   (1) *PROPOSED RULEMAKING.—*

13                   (A) *IN GENERAL.—Not later than 9 months*  
14                   *after the date of enactment of this Act, the Sec-*  
15                   *retary of Health and Human Services (referred*  
16                   *to in this subsection as the “Secretary”) shall*  
17                   *publish a notice of proposed rulemaking in the*  
18                   *Federal Register to promulgate regulations with*  
19                   *respect to—*

20                   (i) *activities that constitute on-farm*  
21                   *packing or holding of food that is not*  
22                   *grown, raised, or consumed on such farm or*  
23                   *another farm under the same ownership for*  
24                   *purposes of section 415 of the Federal Food,*

1           *Drug, and Cosmetic Act (21 U.S.C. 350d),*  
2           *as amended by this Act; and*

3                     *(ii) activities that constitute on-farm*  
4                     *manufacturing or processing of food that is*  
5                     *not consumed on that farm or on another*  
6                     *farm under common ownership for purposes*  
7                     *of such section 415.*

8           *(B) CLARIFICATION.—The rulemaking de-*  
9           *scribed under subparagraph (A) shall enhance*  
10           *the implementation of such section 415 and clar-*  
11           *ify the activities that are included as part of the*  
12           *definition of the term “facility” under such sec-*  
13           *tion 415. Nothing in this Act authorizes the Sec-*  
14           *retary to modify the definition of the term “facil-*  
15           *ity” under such section.*

16           *(C) SCIENCE-BASED RISK ANALYSIS.—In*  
17           *promulgating regulations under subparagraph*  
18           *(A), the Secretary shall conduct a science-based*  
19           *risk analysis of—*

20                     *(i) specific types of on-farm packing or*  
21                     *holding of food that is not grown, raised, or*  
22                     *consumed on such farm or another farm*  
23                     *under the same ownership, as such packing*  
24                     *and holding relates to specific foods; and*

1           (ii) *specific on-farm manufacturing*  
2           *and processing activities as such activities*  
3           *relate to specific foods that are not con-*  
4           *sumed on that farm or on another farm*  
5           *under common ownership.*

6           (D) *AUTHORITY WITH RESPECT TO CERTAIN*  
7           *FACILITIES.—*

8           (i) *IN GENERAL.—In promulgating the*  
9           *regulations under subparagraph (A), the*  
10          *Secretary shall consider the results of the*  
11          *science-based risk analysis conducted under*  
12          *subparagraph (C), and shall exempt certain*  
13          *facilities from the requirements in section*  
14          *418 of the Federal Food, Drug, and Cos-*  
15          *metic Act (as added by this section), includ-*  
16          *ing hazard analysis and preventive controls,*  
17          *and the mandatory inspection frequency in*  
18          *section 421 of such Act (as added by section*  
19          *6201), or modify the requirements in such*  
20          *sections 418 or 421, as the Secretary deter-*  
21          *mines appropriate, if such facilities are en-*  
22          *gaged only in specific types of on-farm*  
23          *manufacturing, processing, packing, or*  
24          *holding activities that the Secretary deter-*

1            *mines to be low risk involving specific foods*  
2            *the Secretary determines to be low risk.*

3            *(ii) LIMITATION.—The exemptions or*  
4            *modifications under clause (i) shall not in-*  
5            *clude an exemption from the requirement to*  
6            *register under section 415 of the Federal*  
7            *Food, Drug, and Cosmetic Act (21 U.S.C.*  
8            *350d), as amended by this Act, if applica-*  
9            *ble, and shall apply only to small businesses*  
10           *and very small businesses, as defined in the*  
11           *regulation promulgated under section*  
12           *418(n) of the Federal Food, Drug, and Cos-*  
13           *metic Act (as added under subsection (a)).*

14           *(2) FINAL REGULATIONS.—Not later than 9*  
15           *months after the close of the comment period for the*  
16           *proposed rulemaking under paragraph (1), the Sec-*  
17           *retary shall adopt final rules with respect to—*

18           *(A) activities that constitute on-farm pack-*  
19           *ing or holding of food that is not grown, raised,*  
20           *or consumed on such farm or another farm*  
21           *under the same ownership for purposes of section*  
22           *415 of the Federal Food, Drug, and Cosmetic Act*  
23           *(21 U.S.C. 350d), as amended by this Act;*

24           *(B) activities that constitute on-farm manu-*  
25           *facturing or processing of food that is not con-*

1           *sumed on that farm or on another farm under*  
2           *common ownership for purposes of such section*  
3           *415; and*

4                   *(C) the requirements under sections 418 and*  
5           *421 of the Federal Food, Drug, and Cosmetic*  
6           *Act, as added by this Act, from which the Sec-*  
7           *retary may issue exemptions or modifications of*  
8           *the requirements for certain types of facilities.*

9           *(d) SMALL ENTITY COMPLIANCE POLICY GUIDE.—Not*  
10          *later than 180 days after the issuance of the regulations*  
11          *promulgated under subsection (n) of section 418 of the Fed-*  
12          *eral Food, Drug, and Cosmetic Act (as added by subsection*  
13          *(a)), the Secretary shall issue a small entity compliance*  
14          *policy guide setting forth in plain language the require-*  
15          *ments of such section 418 and this section to assist small*  
16          *entities in complying with the hazard analysis and other*  
17          *activities required under such section 418 and this section.*

18           *(e) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331)*  
19          *is amended by adding at the end the following:*

20                   *“(uu) The operation of a facility that manufactures,*  
21          *processes, packs, or holds food for sale in the United States*  
22          *if the owner, operator, or agent in charge of such facility*  
23          *is not in compliance with section 418.”.*

24           *(f) NO EFFECT ON HACCP AUTHORITIES.—Nothing*  
25          *in the amendments made by this section limits the author-*

1 *ity of the Secretary under the Federal Food, Drug, and Cos-*  
2 *metic Act (21 U.S.C. 301 et seq.) or the Public Health Serv-*  
3 *ice Act (42 U.S.C. 201 et seq.) to revise, issue, or enforce*  
4 *Hazard Analysis Critical Control programs and the Ther-*  
5 *mally Processed Low-Acid Foods Packaged in Hermetically*  
6 *Sealed Containers standards.*

7       *(g) DIETARY SUPPLEMENTS.—Nothing in the amend-*  
8 *ments made by this section shall apply to any facility with*  
9 *regard to the manufacturing, processing, packing, or hold-*  
10 *ing of a dietary supplement that is in compliance with the*  
11 *requirements of sections 402(g)(2) and 761 of the Federal*  
12 *Food, Drug, and Cosmetic Act (21 U.S.C. 342(g)(2), 379aa-*  
13 *1).*

14       *(h) UPDATING GUIDANCE RELATING TO FISH AND*  
15 *FISHERIES PRODUCTS HAZARDS AND CONTROLS.—The*  
16 *Secretary shall, not later than 180 days after the date of*  
17 *enactment of this Act, update the Fish and Fisheries Prod-*  
18 *ucts Hazards and Control Guidance to take into account*  
19 *advances in technology that have occurred since the pre-*  
20 *vious publication of such Guidance by the Secretary.*

21       *(i) EFFECTIVE DATES.—*

22               *(1) GENERAL RULE.—The amendments made by*  
23 *this section shall take effect 18 months after the date*  
24 *of enactment of this Act.*



1           (2) *FLEXIBILITY FOR SMALL BUSINESSES.*—Not-  
2           withstanding paragraph (1)—

3                   (A) *the amendments made by this section*  
4                   *shall apply to a small business (as defined in the*  
5                   *regulations promulgated under section 418(n) of*  
6                   *the Federal Food, Drug, and Cosmetic Act (as*  
7                   *added by this section)) beginning on the date*  
8                   *that is 6 months after the effective date of such*  
9                   *regulations; and*

10                   (B) *the amendments made by this section*  
11                   *shall apply to a very small business (as defined*  
12                   *in such regulations) beginning on the date that*  
13                   *is 18 months after the effective date of such regu-*  
14                   *lations.*

15 **SEC. 6104. PERFORMANCE STANDARDS.**

16           (a) *IN GENERAL.*—*The Secretary shall, in coordina-*  
17           *tion with the Secretary of Agriculture, not less frequently*  
18           *than every 2 years, review and evaluate relevant health data*  
19           *and other relevant information, including from toxi-*  
20           *cological and epidemiological studies and analyses, current*  
21           *Good Manufacturing Practices issued by the Secretary re-*  
22           *lating to food, and relevant recommendations of relevant*  
23           *advisory committees, including the Food Advisory Com-*  
24           *mittee, to determine the most significant foodborne contami-*  
25           *nants.*

1           **(b) GUIDANCE DOCUMENTS AND REGULATIONS.**—  
2 *Based on the review and evaluation conducted under sub-*  
3 *section (a), and when appropriate to reduce the risk of seri-*  
4 *ous illness or death to humans or animals or to prevent*  
5 *adulteration of the food under section 402 of the Federal*  
6 *Food, Drug, or Cosmetic Act (21 U.S.C. 342) or to prevent*  
7 *the spread by food of communicable disease under section*  
8 *361 of the Public Health Service Act (42 U.S.C. 264), the*  
9 *Secretary shall issue contaminant-specific and science-*  
10 *based guidance documents, including guidance documents*  
11 *regarding action levels, or regulations. Such guidance, in-*  
12 *cluding guidance regarding action levels, or regulations—*  
13           *(1) shall apply to products or product classes;*  
14           *(2) shall, where appropriate, differentiate be-*  
15           *tween food for human consumption and food intended*  
16           *for consumption by animals other than humans; and*  
17           *(3) shall not be written to be facility-specific.*  
18           **(c) NO DUPLICATION OF EFFORTS.**—*The Secretary*  
19 *shall coordinate with the Secretary of Agriculture to avoid*  
20 *issuing duplicative guidance on the same contaminants.*  
21           **(d) REVIEW.**—*The Secretary shall periodically review*  
22 *and revise, as appropriate, the guidance documents, includ-*  
23 *ing guidance documents regarding action levels, or regula-*  
24 *tions promulgated under this section.*

1 **SEC. 6105. STANDARDS FOR PRODUCE SAFETY.**

2       (a) *IN GENERAL.*—Chapter IV (21 U.S.C. 341 et seq.),  
3 as amended by section 6103, is amended by adding at the  
4 end the following:

5 **“SEC. 419. STANDARDS FOR PRODUCE SAFETY.**

6       “(a) *PROPOSED RULEMAKING.*—

7           “(1) *IN GENERAL.*—

8                   “(A) *RULEMAKING.*—Not later than 1 year  
9 after the date of enactment of the FDA Food  
10 Safety Modernization Act, the Secretary, in co-  
11 ordination with the Secretary of Agriculture and  
12 representatives of State departments of agri-  
13 culture (including with regard to the national  
14 organic program established under the Organic  
15 Foods Production Act of 1990), and in consulta-  
16 tion with the Secretary of Homeland Security,  
17 shall publish a notice of proposed rulemaking to  
18 establish science-based minimum standards for  
19 the safe production and harvesting of those types  
20 of fruits and vegetables, including specific mixes  
21 or categories of fruits and vegetables, that are  
22 raw agricultural commodities for which the Sec-  
23 retary has determined that such standards mini-  
24 mize the risk of serious adverse health con-  
25 sequences or death.

1                   “(B) *DETERMINATION BY SECRETARY.*—  
2                   *With respect to small businesses and very small*  
3                   *businesses (as such terms are defined in the regu-*  
4                   *lation promulgated under subparagraph (A))*  
5                   *that produce and harvest those types of fruits*  
6                   *and vegetables that are raw agricultural com-*  
7                   *modities that the Secretary has determined are*  
8                   *low risk and do not present a risk of serious ad-*  
9                   *verse health consequences or death, the Secretary*  
10                   *may determine not to include production and*  
11                   *harvesting of such fruits and vegetables in such*  
12                   *rulemaking, or may modify the applicable re-*  
13                   *quirements of regulations promulgated pursuant*  
14                   *to this section.*

15                   “(2) *PUBLIC INPUT.*—*During the comment pe-*  
16                   *riod on the notice of proposed rulemaking under*  
17                   *paragraph (1), the Secretary shall conduct not less*  
18                   *than 3 public meetings in diverse geographical areas*  
19                   *of the United States to provide persons in different*  
20                   *regions an opportunity to comment.*

21                   “(3) *CONTENT.*—*The proposed rulemaking under*  
22                   *paragraph (1) shall—*

23                                    “(A) *provide sufficient flexibility to be ap-*  
24                                    *plicable to various types of entities engaged in*  
25                                    *the production and harvesting of fruits and vege-*

1            *tables that are raw agricultural commodities, in-*  
2            *cluding small businesses and entities that sell di-*  
3            *rectly to consumers, and be appropriate to the*  
4            *scale and diversity of the production and har-*  
5            *vesting of such commodities;*

6            *“(B) include, with respect to growing, har-*  
7            *vesting, sorting, packing, and storage operations,*  
8            *science-based minimum standards related to soil*  
9            *amendments, hygiene, packaging, temperature*  
10           *controls, animals in the growing area, and*  
11           *water;*

12           *“(C) consider hazards that occur naturally,*  
13           *may be unintentionally introduced, or may be*  
14           *intentionally introduced, including by acts of*  
15           *terrorism;*

16           *“(D) take into consideration, consistent*  
17           *with ensuring enforceable public health protec-*  
18           *tion, conservation and environmental practice*  
19           *standards and policies established by Federal*  
20           *natural resource conservation, wildlife conserva-*  
21           *tion, and environmental agencies;*

22           *“(E) in the case of production that is cer-*  
23           *tified organic, not include any requirements that*  
24           *conflict with or duplicate the requirements of the*  
25           *national organic program established under the*

1           *Organic Foods Production Act of 1990, while*  
2           *providing the same level of public health protec-*  
3           *tion as the requirements under guidance docu-*  
4           *ments, including guidance documents regarding*  
5           *action levels, and regulations under the FDA*  
6           *Food Safety Modernization Act; and*

7                     *“(F) define, for purposes of this section, the*  
8                     *terms ‘small business’ and ‘very small business’.*

9                     *“(4) PRIORITIZATION.—The Secretary shall*  
10            *prioritize the implementation of the regulations under*  
11            *this section for specific fruits and vegetables that are*  
12            *raw agricultural commodities based on known risks*  
13            *which may include a history and severity of*  
14            *foodborne illness outbreaks.*

15                     *“(b) FINAL REGULATION.—*

16                     *“(1) IN GENERAL.—Not later than 1 year after*  
17            *the close of the comment period for the proposed rule-*  
18            *making under subsection (a), the Secretary shall*  
19            *adopt a final regulation to provide for minimum*  
20            *science-based standards for those types of fruits and*  
21            *vegetables, including specific mixes or categories of*  
22            *fruits or vegetables, that are raw agricultural com-*  
23            *modities, based on known safety risks, which may in-*  
24            *clude a history of foodborne illness outbreaks.*

1           “(2) *FINAL REGULATION.*—*The final regulation*  
2 *shall—*

3                   “(A) *provide for coordination of education*  
4 *and enforcement activities by State and local of-*  
5 *ficials, as designated by the Governors of the re-*  
6 *spective States or the appropriate elected State*  
7 *official as recognized by State statute; and*

8                   “(B) *include a description of the variance*  
9 *process under subsection (c) and the types of per-*  
10 *missible variances the Secretary may grant.*

11           “(3) *FLEXIBILITY FOR SMALL BUSINESSES.*—  
12 *Notwithstanding paragraph (1)—*

13                   “(A) *the regulations promulgated under this*  
14 *section shall apply to a small business (as de-*  
15 *defined in the regulation promulgated under sub-*  
16 *section (a)(1)) after the date that is 1 year after*  
17 *the effective date of the final regulation under*  
18 *paragraph (1); and*

19                   “(B) *the regulations promulgated under this*  
20 *section shall apply to a very small business (as*  
21 *defined in the regulation promulgated under sub-*  
22 *section (a)(1)) after the date that is 2 years after*  
23 *the effective date of the final regulation under*  
24 *paragraph (1).*

25           “(c) *CRITERIA.*—

1           “(1) *IN GENERAL.*—*The regulations adopted*  
2           *under subsection (b) shall—*

3                   “(A) *set forth those procedures, processes,*  
4                   *and practices that the Secretary determines to*  
5                   *minimize the risk of serious adverse health con-*  
6                   *sequences or death, including procedures, proc-*  
7                   *esses, and practices that the Secretary determines*  
8                   *to be reasonably necessary to prevent the intro-*  
9                   *duction of known or reasonably foreseeable bio-*  
10                   *logical, chemical, and physical hazards, includ-*  
11                   *ing hazards that occur naturally, may be unin-*  
12                   *tentionally introduced, or may be intentionally*  
13                   *introduced, including by acts of terrorism, into*  
14                   *fruits and vegetables, including specific mixes or*  
15                   *categories of fruits and vegetables, that are raw*  
16                   *agricultural commodities and to provide reason-*  
17                   *able assurances that the produce is not adulter-*  
18                   *ated under section 402;*

19                   “(B) *provide sufficient flexibility to be*  
20                   *practicable for all sizes and types of businesses,*  
21                   *including small businesses such as a small food*  
22                   *processing facility co-located on a farm;*

23                   “(C) *comply with chapter 35 of title 44,*  
24                   *United States Code (commonly known as the*  
25                   *‘Paperwork Reduction Act’), with special atten-*



1            *tion to minimizing the burden (as defined in sec-*  
2            *tion 3502(2) of such Act) on the business, and*  
3            *collection of information (as defined in section*  
4            *3502(3) of such Act), associated with such regu-*  
5            *lations;*

6            *“(D) acknowledge differences in risk and*  
7            *minimize, as appropriate, the number of sepa-*  
8            *rate standards that apply to separate foods; and*

9            *“(E) not require a business to hire a con-*  
10           *sultant or other third party to identify, imple-*  
11           *ment, or certify compliance with these proce-*  
12           *dures, processes, and practices, except in the case*  
13           *of negotiated enforcement resolutions that may*  
14           *require such a consultant or third party; and*

15           *“(F) permit States and foreign countries*  
16           *from which food is imported into the United*  
17           *States to request from the Secretary variances*  
18           *from the requirements of the regulations, subject*  
19           *to paragraph (2), where the State or foreign*  
20           *country determines that the variance is necessary*  
21           *in light of local growing conditions and that the*  
22           *procedures, processes, and practices to be fol-*  
23           *lowed under the variance are reasonably likely to*  
24           *ensure that the produce is not adulterated under*  
25           *section 402 and to provide the same level of pub-*

1            *lic health protection as the requirements of the*  
2            *regulations adopted under subsection (b).*

3            “(2) *VARIANCES.*—

4                    “(A) *REQUESTS FOR VARIANCES.*—*A State*  
5                    *or foreign country from which food is imported*  
6                    *into the United States may in writing request a*  
7                    *variance from the Secretary. Such request shall*  
8                    *describe the variance requested and present in-*  
9                    *formation demonstrating that the variance does*  
10                   *not increase the likelihood that the food for which*  
11                   *the variance is requested will be adulterated*  
12                   *under section 402, and that the variance pro-*  
13                   *vides the same level of public health protection as*  
14                   *the requirements of the regulations adopted*  
15                   *under subsection (b). The Secretary shall review*  
16                   *such requests in a reasonable timeframe.*

17                   “(B) *APPROVAL OF VARIANCES.*—*The Sec-*  
18                   *retary may approve a variance in whole or in*  
19                   *part, as appropriate, and may specify the scope*  
20                   *of applicability of a variance to other similarly*  
21                   *situated persons.*

22                   “(C) *DENIAL OF VARIANCES.*—*The Sec-*  
23                   *retary may deny a variance request if the Sec-*  
24                   *retary determines that such variance is not rea-*  
25                   *sonably likely to ensure that the food is not adul-*

1            *terated under section 402 and is not reasonably*  
2            *likely to provide the same level of public health*  
3            *protection as the requirements of the regulation*  
4            *adopted under subsection (b). The Secretary shall*  
5            *notify the person requesting such variance of the*  
6            *reasons for the denial.*

7            *“(D) MODIFICATION OR REVOCATION OF A*  
8            *VARIANCE.—The Secretary, after notice and an*  
9            *opportunity for a hearing, may modify or revoke*  
10           *a variance if the Secretary determines that such*  
11           *variance is not reasonably likely to ensure that*  
12           *the food is not adulterated under section 402 and*  
13           *is not reasonably likely to provide the same level*  
14           *of public health protection as the requirements of*  
15           *the regulations adopted under subsection (b).*

16           *“(d) ENFORCEMENT.—The Secretary may coordinate*  
17           *with the Secretary of Agriculture and, as appropriate, shall*  
18           *contract and coordinate with the agency or department des-*  
19           *ignated by the Governor of each State to perform activities*  
20           *to ensure compliance with this section.*

21           *“(e) GUIDANCE.—*

22           *“(1) IN GENERAL.—Not later than 1 year after*  
23           *the date of enactment of the FDA Food Safety Mod-*  
24           *ernization Act, the Secretary shall publish, after con-*  
25           *sultation with the Secretary of Agriculture, represent-*

1        *atives of State departments of agriculture, farmer*  
2        *representatives, and various types of entities engaged*  
3        *in the production and harvesting or importing of*  
4        *fruits and vegetables that are raw agricultural com-*  
5        *modities, including small businesses, updated good*  
6        *agricultural practices and guidance for the safe pro-*  
7        *duction and harvesting of specific types of fresh*  
8        *produce under this section.*

9            *“(2) PUBLIC MEETINGS.—The Secretary shall*  
10        *conduct not fewer than 3 public meetings in diverse*  
11        *geographical areas of the United States as part of an*  
12        *effort to conduct education and outreach regarding*  
13        *the guidance described in paragraph (1) for persons*  
14        *in different regions who are involved in the produc-*  
15        *tion and harvesting of fruits and vegetables that are*  
16        *raw agricultural commodities, including persons that*  
17        *sell directly to consumers and farmer representatives,*  
18        *and for importers of fruits and vegetables that are*  
19        *raw agricultural commodities.*

20            *“(3) PAPERWORK REDUCTION.—The Secretary*  
21        *shall ensure that any updated guidance under this*  
22        *section will—*

23            *“(A) provide sufficient flexibility to be prac-*  
24        *ticable for all sizes and types of facilities, includ-*

1           *ing small businesses such as a small food proc-*  
2           *essing facility co-located on a farm; and*

3           “(B) *acknowledge differences in risk and*  
4           *minimize, as appropriate, the number of sepa-*  
5           *rate standards that apply to separate foods.*

6           “(f) *EXEMPTION FOR DIRECT FARM MARKETING.—*

7           “(1) *IN GENERAL.—A farm shall be exempt from*  
8           *the requirements under this section in a calendar*  
9           *year if—*

10           “(A) *during the previous 3-year period, the*  
11           *average annual monetary value of the food sold*  
12           *by such farm directly to qualified end-users dur-*  
13           *ing such period exceeded the average annual*  
14           *monetary value of the food sold by such farm to*  
15           *all other buyers during such period; and*

16           “(B) *the average annual monetary value of*  
17           *all food sold during such period was less than*  
18           *\$500,000, adjusted for inflation.*

19           “(2) *NOTIFICATION TO CONSUMERS.—*

20           “(A) *IN GENERAL.—A farm that is exempt*  
21           *from the requirements under this section shall—*

22           “(i) *with respect to a food for which a*  
23           *food packaging label is required by the Sec-*  
24           *retary under any other provision of this*  
25           *Act, include prominently and conspicuously*

1           *on such label the name and business address*  
2           *of the farm where the produce was grown;*  
3           *or*

4           “(i) *with respect to a food for which*  
5           *a food packaging label is not required by*  
6           *the Secretary under any other provision of*  
7           *this Act, prominently and conspicuously*  
8           *display, at the point of purchase, the name*  
9           *and business address of the farm where the*  
10           *produce was grown, on a label, poster, sign,*  
11           *placard, or document delivered contempora-*  
12           *neously with the food in the normal course*  
13           *of business, or, in the case of Internet sales,*  
14           *in an electronic notice.*

15           “(B) *NO ADDITIONAL LABEL.—Subpara-*  
16           *graph (A) does not provide authority to the Sec-*  
17           *retary to require a label that is in addition to*  
18           *any label required under any other provision of*  
19           *this Act.*

20           “(3) *WITHDRAWAL; RULE OF CONSTRUCTION.—*

21           “(A) *IN GENERAL.—In the event of an ac-*  
22           *tive investigation of a foodborne illness outbreak*  
23           *that is directly linked to a farm subject to an ex-*  
24           *emption under this subsection, or if the Sec-*  
25           *retary determines that it is necessary to protect*

1           *the public health and prevent or mitigate a*  
2           *foodborne illness outbreak based on conduct or*  
3           *conditions associated with a farm that are mate-*  
4           *rial to the safety of the food produced or har-*  
5           *vested at such farm, the Secretary may withdraw*  
6           *the exemption provided to such farm under this*  
7           *subsection.*

8           “(B) *RULE OF CONSTRUCTION.*—*Nothing in*  
9           *this subsection shall be construed to expand or*  
10           *limit the inspection authority of the Secretary.*

11           “(4) *DEFINITIONS.*—

12           “(A) *QUALIFIED END-USER.*—*In this sub-*  
13           *section, the term ‘qualified end-user’, with re-*  
14           *spect to a food means—*

15                   “(i) *the consumer of the food; or*

16                   “(ii) *a restaurant or retail food estab-*  
17                   *lishment (as those terms are defined by the*  
18                   *Secretary for purposes of section 415) that*  
19                   *is located—*

20                           “(I) *in the same State as the farm*  
21                           *that produced the food; or*

22                           “(II) *not more than 275 miles*  
23                           *from such farm.*

1           “(B) *CONSUMER*.—For purposes of subpara-  
2           graph (A), the term ‘consumer’ does not include  
3           a business.

4           “(5) *NO PREEMPTION*.—Nothing in this sub-  
5           section preempts State, local, county, or other non-  
6           Federal law regarding the safe production, harvesting,  
7           holding, transportation, and sale of fresh fruits and  
8           vegetables. Compliance with this subsection shall not  
9           relieve any person from liability at common law or  
10          under State statutory law.

11          “(6) *LIMITATION OF EFFECT*.—Nothing in this  
12          subsection shall prevent the Secretary from exercising  
13          any authority granted in the other sections of this  
14          Act.

15          “(g) *CLARIFICATION*.—This section shall not apply to  
16          produce that is produced by an individual for personal con-  
17          sumption.

18          “(h) *EXCEPTION FOR ACTIVITIES OF FACILITIES SUB-*  
19          *JECT TO SECTION 418*.—This section shall not apply to ac-  
20          tivities of a facility that are subject to section 418.”.

21          “(b) *SMALL ENTITY COMPLIANCE POLICY GUIDE*.—Not  
22          later than 180 days after the issuance of regulations under  
23          section 419 of the Federal Food, Drug, and Cosmetic Act  
24          (as added by subsection (a)), the Secretary of Health and  
25          Human Services shall issue a small entity compliance pol-



1 *icy guide setting forth in plain language the requirements*  
2 *of such section 419 and to assist small entities in complying*  
3 *with standards for safe production and harvesting and*  
4 *other activities required under such section.*

5 *(c) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331),*  
6 *as amended by section 6103, is amended by adding at the*  
7 *end the following:*

8 *“(vv) The failure to comply with the requirements*  
9 *under section 419.”.*

10 *(d) NO EFFECT ON HACCP AUTHORITIES.—Nothing*  
11 *in the amendments made by this section limits the author-*  
12 *ity of the Secretary under the Federal Food, Drug, and Cos-*  
13 *metic Act (21 U.S.C. 301 et seq.) or the Public Health Serv-*  
14 *ice Act (42 U.S.C. 201 et seq.) to revise, issue, or enforce*  
15 *product and category-specific regulations, such as the Sea-*  
16 *food Hazard Analysis Critical Controls Points Program,*  
17 *the Juice Hazard Analysis Critical Control Program, and*  
18 *the Thermally Processed Low-Acid Foods Packaged in Her-*  
19 *metically Sealed Containers standards.*

20 **SEC. 6106. PROTECTION AGAINST INTENTIONAL ADULTERA-**  
21 **TION.**

22 *(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.),*  
23 *as amended by section 6105, is amended by adding at the*  
24 *end the following:*

1 **“SEC. 420. PROTECTION AGAINST INTENTIONAL ADULTERA-**  
2 **TION.**

3 “(a) *DETERMINATIONS.*—

4 “(1) *IN GENERAL.*—*The Secretary shall—*

5 “(A) *conduct a vulnerability assessment of*  
6 *the food system, including by consideration of*  
7 *the Department of Homeland Security biological,*  
8 *chemical, radiological, or other terrorism risk as-*  
9 *sessments;*

10 “(B) *consider the best available under-*  
11 *standing of uncertainties, risks, costs, and bene-*  
12 *fits associated with guarding against intentional*  
13 *adulteration of food at vulnerable points; and*

14 “(C) *determine the types of science-based*  
15 *mitigation strategies or measures that are nec-*  
16 *essary to protect against the intentional adulter-*  
17 *ation of food.*

18 “(2) *LIMITED DISTRIBUTION.*—*In the interest of*  
19 *national security, the Secretary, in consultation with*  
20 *the Secretary of Homeland Security, may determine*  
21 *the time, manner, and form in which determinations*  
22 *made under paragraph (1) are made publicly avail-*  
23 *able.*

24 “(b) *REGULATIONS.*—*Not later than 18 months after*  
25 *the date of enactment of the FDA Food Safety Moderniza-*  
26 *tion Act, the Secretary, in coordination with the Secretary*

1 of Homeland Security and in consultation with the Sec-  
2 retary of Agriculture, shall promulgate regulations to pro-  
3 tect against the intentional adulteration of food subject to  
4 this Act. Such regulations shall—

5           “(1) specify how a person shall assess whether  
6 the person is required to implement mitigation strate-  
7 gies or measures intended to protect against the in-  
8 tentional adulteration of food; and

9           “(2) specify appropriate science-based mitigation  
10 strategies or measures to prepare and protect the food  
11 supply chain at specific vulnerable points, as appro-  
12 priate.

13           “(c) *APPLICABILITY.*—Regulations promulgated under  
14 subsection (b) shall apply only to food for which there is  
15 a high risk of intentional contamination, as determined by  
16 the Secretary, in consultation with the Secretary of Home-  
17 land Security, under subsection (a), that could cause serious  
18 adverse health consequences or death to humans or animals  
19 and shall include those foods—

20           “(1) for which the Secretary has identified clear  
21 vulnerabilities (including short shelf-life or suscepti-  
22 bility to intentional contamination at critical control  
23 points); and

24           “(2) in bulk or batch form, prior to being pack-  
25 aged for the final consumer.

1       “(d) *EXCEPTION.*—*This section shall not apply to*  
2 *farms, except for those that produce milk.*”

3       “(e) *DEFINITION.*—*For purposes of this section, the*  
4 *term ‘farm’ has the meaning given that term in section*  
5 *1.227 of title 21, Code of Federal Regulations (or any suc-*  
6 *cessor regulation).’.*”

7       (b) *GUIDANCE DOCUMENTS.*—

8           (1) *IN GENERAL.*—*Not later than 1 year after*  
9 *the date of enactment of this Act, the Secretary of*  
10 *Health and Human Services, in consultation with the*  
11 *Secretary of Homeland Security and the Secretary of*  
12 *Agriculture, shall issue guidance documents related to*  
13 *protection against the intentional adulteration of*  
14 *food, including mitigation strategies or measures to*  
15 *guard against such adulteration as required under*  
16 *section 420 of the Federal Food, Drug, and Cosmetic*  
17 *Act, as added by subsection (a).*

18           (2) *CONTENT.*—*The guidance documents issued*  
19 *under paragraph (1) shall—*

20                   (A) *include a model assessment for a person*  
21 *to use under subsection (b)(1) of section 420 of*  
22 *the Federal Food, Drug, and Cosmetic Act, as*  
23 *added by subsection (a);*

1           (B) include examples of mitigation strate-  
2           gies or measures described in subsection (b)(2) of  
3           such section; and

4           (C) specify situations in which the examples  
5           of mitigation strategies or measures described in  
6           subsection (b)(2) of such section are appropriate.

7           (3) *LIMITED DISTRIBUTION.*—In the interest of  
8           national security, the Secretary of Health and  
9           Human Services, in consultation with the Secretary  
10          of Homeland Security, may determine the time, man-  
11          ner, and form in which the guidance documents  
12          issued under paragraph (1) are made public, includ-  
13          ing by releasing such documents to targeted audi-  
14          ences.

15          (c) *PERIODIC REVIEW.*—The Secretary of Health and  
16          Human Services shall periodically review and, as appro-  
17          priate, update the regulations under section 420(b) of the  
18          Federal Food, Drug, and Cosmetic Act, as added by sub-  
19          section (a), and the guidance documents under subsection  
20          (b).

21          (d) *PROHIBITED ACTS.*—Section 301 (21 U.S.C. 331  
22          et seq.), as amended by section 6105, is amended by adding  
23          at the end the following:

24          “(ww) The failure to comply with section 420.”.

1 **SEC. 6107. AUTHORITY TO COLLECT FEES.**

2       (a) *FEES FOR REINSPECTION, RECALL, AND IMPORTA-*  
3 *TION ACTIVITIES.*—Subchapter C of chapter VII (21 U.S.C.  
4 379f *et seq.*) is amended by adding at the end the following:

5               **“PART 6—FEES RELATED TO FOOD**

6 **“SEC. 743. AUTHORITY TO COLLECT AND USE FEES.**

7       “(a) *IN GENERAL.*—

8               “(1) *PURPOSE AND AUTHORITY.*—For fiscal year  
9 2010 and each subsequent fiscal year, the Secretary  
10 shall, in accordance with this section, assess and col-  
11 lect fees from—

12                       “(A) the responsible party for each domestic  
13 facility (as defined in section 415(b)) and the  
14 United States agent for each foreign facility sub-  
15 ject to a reinspection in such fiscal year, to cover  
16 reinspection-related costs for such year;

17                       “(B) the responsible party for a domestic  
18 facility (as defined in section 415(b)) and an  
19 importer who does not comply with a recall  
20 order under section 423 or under section 412(f)  
21 in such fiscal year, to cover food recall activities  
22 associated with such order performed by the Sec-  
23 retary, including technical assistance, follow-up  
24 effectiveness checks, and public notifications, for  
25 such year;

1           “(C) each importer participating in the vol-  
2           untary qualified importer program under section  
3           806 in such year, to cover the administrative  
4           costs of such program for such year; and

5           “(D) each importer subject to a reinspection  
6           in such fiscal year, to cover reinspection-related  
7           costs for such year.

8           “(2) *DEFINITIONS.*—For purposes of this sec-  
9           tion—

10           “(A) the term ‘reinspection’ means—

11           “(i) with respect to domestic facilities  
12           (as defined in section 415(b)), 1 or more in-  
13           spections conducted under section 704 subse-  
14           quent to an inspection conducted under  
15           such provision which identified noncompli-  
16           ance materially related to a food safety re-  
17           quirement of this Act, specifically to deter-  
18           mine whether compliance has been achieved  
19           to the Secretary’s satisfaction; and

20           “(ii) with respect to importers, 1 or  
21           more examinations conducted under section  
22           801 subsequent to an examination con-  
23           ducted under such provision which identi-  
24           fied noncompliance materially related to a  
25           food safety requirement of this Act, specifi-

1           cally to determine whether compliance has  
2           been achieved to the Secretary's satisfaction;

3           “(B) the term ‘reinspection-related costs’  
4           means all expenses, including administrative ex-  
5           penses, incurred in connection with—

6                   “(i) arranging, conducting, and evalu-  
7                   ating the results of reinspections; and

8                   “(ii) assessing and collecting reinspec-  
9                   tion fees under this section; and

10           “(C) the term ‘responsible party’ has the  
11           meaning given such term in section 417(a)(1).

12           “(b) *ESTABLISHMENT OF FEES.*—

13                   “(1) *IN GENERAL.*—Subject to subsections (c)  
14                   and (d), the Secretary shall establish the fees to be col-  
15                   lected under this section for each fiscal year specified  
16                   in subsection (a)(1), based on the methodology de-  
17                   scribed under paragraph (2), and shall publish such  
18                   fees in a *Federal Register* notice not later than 60  
19                   days before the start of each such year.

20                   “(2) *FEE METHODOLOGY.*—

21                           “(A) *FEES.*—Fees amounts established for  
22                           collection—

23                                   “(i) under subparagraph (A) of sub-  
24                                   section (a)(1) for a fiscal year shall be based  
25                                   on the Secretary's estimate of 100 percent of



1           *the costs of the reinspection-related activi-*  
2           *ties (including by type or level of reinspec-*  
3           *tion activity, as the Secretary determines*  
4           *applicable) described in such subparagraph*  
5           *(A) for such year;*

6           “(ii) under subparagraph (B) of sub-  
7           section (a)(1) for a fiscal year shall be based  
8           on the Secretary’s estimate of 100 percent of  
9           the costs of the activities described in such  
10          subparagraph (B) for such year;

11          “(iii) under subparagraph (C) of sub-  
12          section (a)(1) for a fiscal year shall be based  
13          on the Secretary’s estimate of 100 percent of  
14          the costs of the activities described in such  
15          subparagraph (C) for such year; and

16          “(iv) under subparagraph (D) of sub-  
17          section (a)(1) for a fiscal year shall be based  
18          on the Secretary’s estimate of 100 percent of  
19          the costs of the activities described in such  
20          subparagraph (D) for such year.

21          “(B) *OTHER CONSIDERATIONS.*—

22                 “(i) *VOLUNTARY QUALIFIED IMPORTER*  
23                 *PROGRAM.*—*In establishing the fee amounts*  
24                 *under subparagraph (A)(iii) for a fiscal*  
25                 *year, the Secretary shall provide for the*

1            *number of importers who have submitted to*  
2            *the Secretary a notice under section 806(c)*  
3            *informing the Secretary of the intent of*  
4            *such importer to participate in the program*  
5            *under section 806 in such fiscal year.*

6            “(ii) *CREDITING OF FEES.—In estab-*  
7            *lishing the fee amounts under subparagraph*  
8            *(A) for a fiscal year, the Secretary shall*  
9            *provide for the crediting of fees from the*  
10           *previous year to the next year if the Sec-*  
11           *retary overestimated the amount of fees*  
12           *needed to carry out such activities, and con-*  
13           *sider the need to account for any adjust-*  
14           *ment of fees and such other factors as the*  
15           *Secretary determines appropriate.*

16           “(iii) *PUBLISHED GUIDELINES.—Not*  
17           *later than 180 days after the date of enact-*  
18           *ment of the FDA Food Safety Moderniza-*  
19           *tion Act, the Secretary shall publish in the*  
20           *Federal Register a proposed set of guidelines*  
21           *in consideration of the burden of fee*  
22           *amounts on small business. Such consider-*  
23           *ation may include reduced fee amounts for*  
24           *small businesses. The Secretary shall pro-*  
25           *vide for a period of public comment on such*

1            *guidelines. The Secretary shall adjust the fee*  
2            *schedule for small businesses subject to such*  
3            *fees only through notice and comment rule-*  
4            *making.*

5            “(3) *USE OF FEES.*—*The Secretary shall make*  
6            *all of the fees collected pursuant to clause (i), (ii),*  
7            *(iii), and (iv) of paragraph (2)(A) available solely to*  
8            *pay for the costs referred to in such clause (i), (ii),*  
9            *(iii), and (iv) of paragraph (2)(A), respectively.*

10          “(c) *LIMITATIONS.*—

11            “(1) *IN GENERAL.*—*Fees under subsection (a)*  
12            *shall be refunded for a fiscal year beginning after fis-*  
13            *cal year 2010 unless the amount of the total appro-*  
14            *priations for food safety activities at the Food and*  
15            *Drug Administration for such fiscal year (excluding*  
16            *the amount of fees appropriated for such fiscal year)*  
17            *is equal to or greater than the amount of appropria-*  
18            *tions for food safety activities at the Food and Drug*  
19            *Administration for fiscal year 2009 (excluding the*  
20            *amount of fees appropriated for such fiscal year),*  
21            *multiplied by the adjustment factor under paragraph*  
22            *(3).*

23            “(2) *AUTHORITY.*—*If—*

1           “(A) *the Secretary does not assess fees under*  
2           *subsection (a) for a portion of a fiscal year be-*  
3           *cause paragraph (1) applies; and*

4           “(B) *at a later date in such fiscal year,*  
5           *such paragraph (1) ceases to apply,*  
6           *the Secretary may assess and collect such fees under*  
7           *subsection (a), without any modification to the rate*  
8           *of such fees, notwithstanding the provisions of sub-*  
9           *section (a) relating to the date fees are to be paid.*

10           “(3) *ADJUSTMENT FACTOR.—*

11           “(A) *IN GENERAL.—The adjustment factor*  
12           *described in paragraph (1) shall be the total per-*  
13           *centage change that occurred in the Consumer*  
14           *Price Index for all urban consumers (all items;*  
15           *United States city average) for the 12-month pe-*  
16           *riod ending June 30 preceding the fiscal year,*  
17           *but in no case shall such adjustment factor be*  
18           *negative.*

19           “(B) *COMPOUNDED BASIS.—The adjustment*  
20           *under subparagraph (A) made each fiscal year*  
21           *shall be added on a compounded basis to the sum*  
22           *of all adjustments made each fiscal year after fis-*  
23           *cal year 2009.*

24           “(4) *LIMITATION ON AMOUNT OF CERTAIN*  
25           *FEEES.—*

1           “(A) *IN GENERAL.*—*Notwithstanding any*  
2 *other provision of this section and subject to sub-*  
3 *paragraph (B), the Secretary may not collect fees*  
4 *in a fiscal year such that the amount collected—*

5                   “(i) *under subparagraph (B) of sub-*  
6 *section (a)(1) exceeds \$20,000,000; and*

7                   “(ii) *under subparagraphs (A) and (D)*  
8 *of subsection (a)(1) exceeds \$25,000,000*  
9 *combined.*

10           “(B) *EXCEPTION.*—*If a domestic facility*  
11 *(as defined in section 415(b)) or an importer be-*  
12 *comes subject to a fee described in subparagraph*  
13 *(A), (B), or (D) of subsection (a)(1) after the*  
14 *maximum amount of fees has been collected by*  
15 *the Secretary under subparagraph (A), the Sec-*  
16 *retary may collect a fee from such facility or im-*  
17 *porter.*

18           “(d) *CREDITING AND AVAILABILITY OF FEES.*—*Fees*  
19 *authorized under subsection (a) shall be collected and avail-*  
20 *able for obligation only to the extent and in the amount*  
21 *provided in appropriations Acts. Such fees are authorized*  
22 *to remain available until expended. Such sums as may be*  
23 *necessary may be transferred from the Food and Drug Ad-*  
24 *ministration salaries and expenses account without fiscal*  
25 *year limitation to such appropriation account for salaries*

1 *and expenses with such fiscal year limitation. The sums*  
2 *transferred shall be available solely for the purpose of pay-*  
3 *ing the operating expenses of the Food and Drug Adminis-*  
4 *tration employees and contractors performing activities as-*  
5 *sociated with these food safety fees.*

6 “(e) *COLLECTION OF FEES.*—

7 “(1) *IN GENERAL.*—*The Secretary shall specify*  
8 *in the Federal Register notice described in subsection*  
9 *(b)(1) the time and manner in which fees assessed*  
10 *under this section shall be collected.*

11 “(2) *COLLECTION OF UNPAID FEES.*—*In any*  
12 *case where the Secretary does not receive payment of*  
13 *a fee assessed under this section within 30 days after*  
14 *it is due, such fee shall be treated as a claim of the*  
15 *United States Government subject to provisions of*  
16 *subchapter II of chapter 37 of title 31, United States*  
17 *Code.*

18 “(f) *ANNUAL REPORT TO CONGRESS.*—*Not later than*  
19 *120 days after each fiscal year for which fees are assessed*  
20 *under this section, the Secretary shall submit a report to*  
21 *the Committee on Health, Education, Labor, and Pensions*  
22 *of the Senate and the Committee on Energy and Commerce*  
23 *of the House of Representatives, to include a description*  
24 *of fees assessed and collected for each such year and a sum-*

1 *mary description of the entities paying such fees and the*  
2 *types of business in which such entities engage.*

3 “(g) *AUTHORIZATION OF APPROPRIATIONS.—For fis-*  
4 *cal year 2010 and each fiscal year thereafter, there is au-*  
5 *thorized to be appropriated for fees under this section an*  
6 *amount equal to the total revenue amount determined under*  
7 *subsection (b) for the fiscal year, as adjusted or otherwise*  
8 *affected under the other provisions of this section.”.*

9 (b) *EXPORT CERTIFICATION FEES FOR FOODS AND*  
10 *ANIMAL FEED.—*

11 (1) *AUTHORITY FOR EXPORT CERTIFICATIONS*  
12 *FOR FOOD, INCLUDING ANIMAL FEED.—Section*  
13 *801(e)(4)(A) (21 U.S.C. 381(e)(4)(A)) is amended—*

14 (A) *in the matter preceding clause (i), by*  
15 *striking “a drug” and inserting “a food, drug”;*

16 (B) *in clause (i) by striking “exported*  
17 *drug” and inserting “exported food, drug”; and*

18 (C) *in clause (ii) by striking “the drug”*  
19 *each place it appears and inserting “the food,*  
20 *drug”.*

21 (2) *CLARIFICATION OF CERTIFICATION.—Section*  
22 *801(e)(4) (21 U.S.C. 381(e)(4)) is amended by insert-*  
23 *ing after subparagraph (B) the following new sub-*  
24 *paragraph:*

1       “(C) For purposes of this paragraph, a certification  
2 by the Secretary shall be made on such basis, and in such  
3 form (including a publicly available listing) as the Sec-  
4 retary determines appropriate.”.

5           (3) *LIMITATIONS ON USE AND AMOUNT OF*  
6 *FEES.—Paragraph (4) of section 801(e) (21 U.S.C.*  
7 *381(e)) is amended by adding at the end the fol-*  
8 *lowing:*

9       “(D) With regard to fees pursuant to subparagraph  
10 (B) in connection with written export certifications for  
11 food:

12           “(i) Such fees shall be collected and available  
13 solely for the costs of the Food and Drug Administra-  
14 tion associated with issuing such certifications.

15           “(ii) Such fees may not be retained in an  
16 amount that exceeds such costs.”.

17 **SEC. 6108. NATIONAL AGRICULTURE AND FOOD DEFENSE**  
18 **STRATEGY.**

19       (a) *DEVELOPMENT AND SUBMISSION OF STRATEGY.—*

20           (1) *IN GENERAL.—Not later than 1 year after*  
21 *the date of enactment of this Act, the Secretary of*  
22 *Health and Human Services and the Secretary of Ag-*  
23 *riculture, in coordination with the Secretary of*  
24 *Homeland Security, shall prepare and transmit to the*  
25 *relevant committees of Congress, and make publicly*



1 available on the Internet Web sites of the Department  
2 of Health and Human Services and the Department  
3 of Agriculture, the National Agriculture and Food De-  
4 fense Strategy.

5 (2) *IMPLEMENTATION PLAN.*—The strategy shall  
6 include an implementation plan for use by the Secre-  
7 taries described under paragraph (1) in carrying out  
8 the strategy.

9 (3) *RESEARCH.*—The strategy shall include a co-  
10 ordinated research agenda for use by the Secretaries  
11 described under paragraph (1) in conducting research  
12 to support the goals and activities described in para-  
13 graphs (1) and (2) of subsection (b).

14 (4) *REVISIONS.*—Not later than 4 years after the  
15 date on which the strategy is submitted to the relevant  
16 committees of Congress under paragraph (1), and not  
17 less frequently than every 4 years thereafter, the Sec-  
18 retary of Health and Human Services and the Sec-  
19 retary of Agriculture, in coordination with the Sec-  
20 retary of Homeland Security, shall revise and submit  
21 to the relevant committees of Congress the strategy.

22 (5) *CONSISTENCY WITH EXISTING PLANS.*—The  
23 strategy described in paragraph (1) shall be consistent  
24 with—

- 1                   (A) *the National Incident Management Sys-*  
2                   *tem;*  
3                   (B) *the National Response Framework;*  
4                   (C) *the National Infrastructure Protection*  
5                   *Plan;*  
6                   (D) *the National Preparedness Goals; and*  
7                   (E) *other relevant national strategies.*

8           (b) *COMPONENTS.—*

9                   (1) *IN GENERAL.—The strategy shall include a*  
10                   *description of the process to be used by the Depart-*  
11                   *ment of Health and Human Services, the Department*  
12                   *of Agriculture, and the Department of Homeland Se-*  
13                   *curity—*

14                   (A) *to achieve each goal described in para-*  
15                   *graph (2); and*

16                   (B) *to evaluate the progress made by Fed-*  
17                   *eral, State, local, and tribal governments to-*  
18                   *wards the achievement of each goal described in*  
19                   *paragraph (2).*

20                   (2) *GOALS.—The strategy shall include a de-*  
21                   *scription of the process to be used by the Department*  
22                   *of Health and Human Services, the Department of*  
23                   *Agriculture, and the Department of Homeland Secu-*  
24                   *rity to achieve the following goals:*

1           (A) *PREPAREDNESS GOAL.*—*Enhance the*  
2 *preparedness of the agriculture and food system*  
3 *by—*

4           (i) *conducting vulnerability assess-*  
5 *ments of the agriculture and food system;*

6           (ii) *mitigating vulnerabilities of the*  
7 *system;*

8           (iii) *improving communication and*  
9 *training relating to the system;*

10          (iv) *developing and conducting exer-*  
11 *cises to test decontamination and disposal*  
12 *plans;*

13          (v) *developing modeling tools to im-*  
14 *prove event consequence assessment and de-*  
15 *cision support; and*

16          (vi) *preparing risk communication*  
17 *tools and enhancing public awareness*  
18 *through outreach.*

19        (B) *DETECTION GOAL.*—*Improve agri-*  
20 *culture and food system detection capabilities*  
21 *by—*

22          (i) *identifying contamination in food*  
23 *products at the earliest possible time; and*

24          (ii) *conducting surveillance to prevent*  
25 *the spread of diseases.*

1           (C) *EMERGENCY RESPONSE GOAL.—Ensure*  
2           *an efficient response to agriculture and food*  
3           *emergencies by—*

4                   (i) *immediately investigating animal*  
5                   *disease outbreaks and suspected food con-*  
6                   *tamination;*

7                   (ii) *preventing additional human ill-*  
8                   *nesses;*

9                   (iii) *organizing, training, and equip-*  
10                   *ping animal, plant, and food emergency re-*  
11                   *sponse teams of—*

12                           (I) *the Federal Government; and*

13                           (II) *State, local, and tribal gov-*  
14                           *ernments;*

15                   (iv) *designing, developing, and evalu-*  
16                   *ating training and exercises carried out*  
17                   *under agriculture and food defense plans;*  
18                   *and*

19                   (v) *ensuring consistent and organized*  
20                   *risk communication to the public by—*

21                           (I) *the Federal Government;*

22                           (II) *State, local, and tribal gov-*  
23                           *ernments; and*

24                           (III) *the private sector.*

1           (D) *RECOVERY GOAL.*—*Secure agriculture*  
2 *and food production after an agriculture or food*  
3 *emergency by—*

4           (i) *working with the private sector to*  
5 *develop business recovery plans to rapidly*  
6 *resume agriculture, food production, and*  
7 *international trade;*

8           (ii) *conducting exercises of the plans*  
9 *described in subparagraph (C) with the goal*  
10 *of long-term recovery results;*

11           (iii) *rapidly removing, and effectively*  
12 *disposing of—*

13           (I) *contaminated agriculture and*  
14 *food products; and*

15           (II) *infected plants and animals;*

16           *and*

17           (iv) *decontaminating and restoring*  
18 *areas affected by an agriculture or food*  
19 *emergency.*

20           (3) *EVALUATION.*—*The Secretary, in coordina-*  
21 *tion with the Secretary of Agriculture and the Sec-*  
22 *retary of Homeland Security, shall—*

23           (A) *develop metrics to measure progress for*  
24 *the evaluation process described in paragraph*  
25 *(1)(B); and*

1                   (B) report on the progress measured in sub-  
2                   paragraph (A) as part of the National Agri-  
3                   culture and Food Defense strategy described in  
4                   subsection (a)(1).

5           (c) *LIMITED DISTRIBUTION.*—In the interest of na-  
6           tional security, the Secretary of Health and Human Serv-  
7           ices and the Secretary of Agriculture, in coordination with  
8           the Secretary of Homeland Security, may determine the  
9           manner and format in which the National Agriculture and  
10          Food Defense strategy established under this section is made  
11          publicly available on the Internet Web sites of the Depart-  
12          ment of Health and Human Services, the Department of  
13          Homeland Security, and the Department of Agriculture, as  
14          described in subsection (a)(1).

15   **SEC. 6109. FOOD AND AGRICULTURE COORDINATING COUN-**  
16   **CILS.**

17           The Secretary of Homeland Security, in coordination  
18          with the Secretary of Health and Human Services and the  
19          Secretary of Agriculture, shall within 180 days of enact-  
20          ment of this Act, and annually thereafter, submit to the  
21          relevant committees of Congress, and make publicly avail-  
22          able on the Internet Web site of the Department of Home-  
23          land Security, a report on the activities of the Food and  
24          Agriculture Government Coordinating Council and the

1 *Food and Agriculture Sector Coordinating Council, includ-*  
2 *ing the progress of such Councils on—*

3           (1) *facilitating partnerships between public and*  
4 *private entities to help coordinate and enhance the*  
5 *protection of the agriculture and food system of the*  
6 *United States;*

7           (2) *providing for the regular and timely inter-*  
8 *change of information between each council relating*  
9 *to the security of the agriculture and food system (in-*  
10 *cluding intelligence information);*

11           (3) *identifying best practices and methods for*  
12 *improving the coordination among Federal, State,*  
13 *local, and private sector preparedness and response*  
14 *plans for agriculture and food defense; and*

15           (4) *recommending methods by which to protect*  
16 *the economy and the public health of the United*  
17 *States from the effects of—*

18                   (A) *animal or plant disease outbreaks;*

19                   (B) *food contamination; and*

20                   (C) *natural disasters affecting agriculture*  
21 *and food.*

22 **SEC. 6110. BUILDING DOMESTIC CAPACITY.**

23           (a) *IN GENERAL.—*

24                   (1) *INITIAL REPORT.—The Secretary, in coordi-*  
25 *nation with the Secretary of Agriculture and the Sec-*

1        *retary of Homeland Security, shall, not later than 2*  
2        *years after the date of enactment of this Act, submit*  
3        *to Congress a comprehensive report that identifies*  
4        *programs and practices that are intended to promote*  
5        *the safety and supply chain security of food and to*  
6        *prevent outbreaks of foodborne illness and other food-*  
7        *related hazards that can be addressed through preven-*  
8        *tive activities. Such report shall include a description*  
9        *of the following:*

10                *(A) Analysis of the need for further regula-*  
11                *tions or guidance to industry.*

12                *(B) Outreach to food industry sectors, in-*  
13                *cluding through the Food and Agriculture Co-*  
14                *ordinating Councils referred to in section 6109,*  
15                *to identify potential sources of emerging threats*  
16                *to the safety and security of the food supply and*  
17                *preventive strategies to address those threats.*

18                *(C) Systems to ensure the prompt distribu-*  
19                *tion to the food industry of information and*  
20                *technical assistance concerning preventive strate-*  
21                *gies.*

22                *(D) Communication systems to ensure that*  
23                *information about specific threats to the safety*  
24                *and security of the food supply are rapidly and*  
25                *effectively disseminated.*



1           (E) *Surveillance systems and laboratory*  
2           *networks to rapidly detect and respond to*  
3           *foodborne illness outbreaks and other food-related*  
4           *hazards, including how such systems and net-*  
5           *works are integrated.*

6           (F) *Outreach, education, and training pro-*  
7           *vided to States and local governments to build*  
8           *State and local food safety and food defense ca-*  
9           *pabilities, including progress implementing*  
10          *strategies developed under sections 6108 and*  
11          *6205.*

12          (G) *The estimated resources needed to effec-*  
13          *tively implement the programs and practices*  
14          *identified in the report developed in this section*  
15          *over a 5-year period.*

16          (H) *The impact of requirements under this*  
17          *Act (including amendments made by this Act)*  
18          *on certified organic farms and facilities (as de-*  
19          *defined in section 415 of the Federal Food, Drug,*  
20          *and Cosmetic Act (21 U.S.C. 350d)).*

21          (I) *Specific efforts taken pursuant to the*  
22          *agreements authorized under section 421(c) of*  
23          *the Federal Food, Drug, and Cosmetic Act (as*  
24          *added by section 6201), together with, as nec-*

1           *essary, a description of any additional authori-*  
2           *ties necessary to improve seafood safety.*

3           (2) *BIENNIAL REPORTS.*—*On a biennial basis*  
4           *following the submission of the report under para-*  
5           *graph (1), the Secretary shall submit to Congress a*  
6           *report that—*

7                   (A) *reviews previous food safety programs*  
8                   *and practices;*

9                   (B) *outlines the success of those programs*  
10                  *and practices;*

11                  (C) *identifies future programs and prac-*  
12                  *tices; and*

13                  (D) *includes information related to any*  
14                  *matter described in subparagraphs (A) through*  
15                  *(H) of paragraph (1), as necessary.*

16           (b) *RISK-BASED ACTIVITIES.*—*The report developed*  
17           *under subsection (a)(1) shall describe methods that seek to*  
18           *ensure that resources available to the Secretary for food*  
19           *safety-related activities are directed at those actions most*  
20           *likely to reduce risks from food, including the use of preven-*  
21           *tive strategies and allocation of inspection resources. The*  
22           *Secretary shall promptly undertake those risk-based actions*  
23           *that are identified during the development of the report as*  
24           *likely to contribute to the safety and security of the food*  
25           *supply.*

1           (c) *CAPABILITY FOR LABORATORY ANALYSES; RE-*  
2 *SEARCH.*—*The report developed under subsection (a)(1)*  
3 *shall provide a description of methods to increase capacity*  
4 *to undertake analyses of food samples promptly after collec-*  
5 *tion, to identify new and rapid analytical techniques, in-*  
6 *cluding commercially available techniques that can be em-*  
7 *ployed at ports of entry and by Food Emergency Response*  
8 *Network laboratories, and to provide for well-equipped and*  
9 *staffed laboratory facilities and progress toward laboratory*  
10 *accreditation under section 422 of the Federal Food, Drug,*  
11 *and Cosmetic Act (as added by section 6202).*

12           (d) *INFORMATION TECHNOLOGY.*—*The report devel-*  
13 *oped under subsection (a)(1) shall include a description of*  
14 *such information technology systems as may be needed to*  
15 *identify risks and receive data from multiple sources, in-*  
16 *cluding foreign governments, State, local, and tribal govern-*  
17 *ments, other Federal agencies, the food industry, labora-*  
18 *tories, laboratory networks, and consumers. The informa-*  
19 *tion technology systems that the Secretary describes shall*  
20 *also provide for the integration of the facility registration*  
21 *system under section 415 of the Federal Food, Drug, and*  
22 *Cosmetic Act (21 U.S.C. 350d), and the prior notice system*  
23 *under section 801(m) of such Act (21 U.S.C. 381(m)) with*  
24 *other information technology systems that are used by the*

1 *Federal Government for the processing of food offered for*  
2 *import into the United States.*

3 (e) *AUTOMATED RISK ASSESSMENT.*—*The report de-*  
4 *veloped under subsection (a)(1) shall include a description*  
5 *of progress toward developing and improving an automated*  
6 *risk assessment system for food safety surveillance and allo-*  
7 *cation of resources.*

8 (f) *TRACEBACK AND SURVEILLANCE REPORT.*—*The*  
9 *Secretary shall include in the report developed under sub-*  
10 *section (a)(1) an analysis of the Food and Drug Adminis-*  
11 *tration’s performance in foodborne illness outbreaks during*  
12 *the 5-year period preceding the date of enactment of this*  
13 *Act involving fruits and vegetables that are raw agricul-*  
14 *tural commodities (as defined in section 6201(r) (21 U.S.C.*  
15 *321(r)) and recommendations for enhanced surveillance,*  
16 *outbreak response, and traceability. Such findings and rec-*  
17 *ommendations shall address communication and coordina-*  
18 *tion with the public, industry, and State and local govern-*  
19 *ments, as such communication and coordination relates to*  
20 *outbreak identification and traceback.*

21 (g) *BIENNIAL FOOD SAFETY AND FOOD DEFENSE RE-*  
22 *SEARCH PLAN.*—*The Secretary, the Secretary of Agri-*  
23 *culture, and the Secretary of Homeland Security shall, on*  
24 *a biennial basis, submit to Congress a joint food safety and*  
25 *food defense research plan which may include studying the*

1 *long-term health effects of foodborne illness. Such biennial*  
2 *plan shall include a list and description of projects con-*  
3 *ducted during the previous 2-year period and the plan for*  
4 *projects to be conducted during the subsequent 2-year pe-*  
5 *riod.*

6 *(h) EFFECTIVENESS OF PROGRAMS ADMINISTERED BY*  
7 *THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—*

8 *(1) IN GENERAL.—To determine whether existing*  
9 *Federal programs administered by the Department of*  
10 *Health and Human Services are effective in achieving*  
11 *the stated goals of such programs, the Secretary shall,*  
12 *beginning not later than 1 year after the date of en-*  
13 *actment of this Act—*

14 *(A) conduct an annual evaluation of each*  
15 *program of such Department to determine the ef-*  
16 *fectiveness of each such program in achieving*  
17 *legislated intent, purposes, and objectives; and*

18 *(B) submit to Congress a report concerning*  
19 *such evaluation.*

20 *(2) CONTENT.—The report described under para-*  
21 *graph (1)(B) shall—*

22 *(A) include conclusions concerning the rea-*  
23 *sons that such existing programs have proven*  
24 *successful or not successful and what factors con-*  
25 *tributed to such conclusions;*

1           (B) include recommendations for consolida-  
2           tion and elimination to reduce duplication and  
3           inefficiencies in such programs at such Depart-  
4           ment as identified during the evaluation conduct  
5           under this subsection; and

6           (C) be made publicly available in a publi-  
7           cation entitled “Guide to the U.S. Department of  
8           Health and Human Services Programs”.

9           (i) *UNIQUE IDENTIFICATION NUMBERS.*—

10           (1) *IN GENERAL.*—Not later than 1 year after  
11           the date of enactment of this Act, the Secretary, act-  
12           ing through the Commissioner of Food and Drugs,  
13           shall conduct a study regarding the need for, and  
14           challenges associated with, development and imple-  
15           mentation of a program that requires a unique iden-  
16           tification number for each food facility registered  
17           with the Secretary and, as appropriate, each broker  
18           that imports food into the United States. Such study  
19           shall include an evaluation of the costs associated  
20           with development and implementation of such a sys-  
21           tem, and make recommendations about what new au-  
22           thorities, if any, would be necessary to develop and  
23           implement such a system.

24           (2) *REPORT.*—Not later than 15 months after the  
25           date of enactment of this Act, the Secretary shall sub-

1        *mit to Congress a report that describes the findings*  
2        *of the study conducted under paragraph (1) and that*  
3        *includes any recommendations determined appro-*  
4        *priate by the Secretary.*

5        **SEC. 6111. SANITARY TRANSPORTATION OF FOOD.**

6        *(a) IN GENERAL.—Not later than 18 months after the*  
7        *date of enactment of this Act, the Secretary shall promul-*  
8        *gate regulations described in section 416(b) of the Federal*  
9        *Food, Drug, and Cosmetic Act (21 U.S.C. 350e(b)).*

10       *(b) FOOD TRANSPORTATION STUDY.—The Secretary,*  
11       *acting through the Commissioner of Food and Drugs, shall*  
12       *conduct a study of the transportation of food for consump-*  
13       *tion in the United States, including transportation by air,*  
14       *that includes an examination of the unique needs of rural*  
15       *and frontier areas with regard to the delivery of safe food.*

16       **SEC. 6112. FOOD ALLERGY AND ANAPHYLAXIS MANAGE-**  
17       **MENT.**

18       *(a) DEFINITIONS.—In this section:*

19                *(1) EARLY CHILDHOOD EDUCATION PROGRAM.—*  
20        *The term “early childhood education program”*  
21        *means—*

22                        *(A) a Head Start program or an Early*  
23                        *Head Start program carried out under the Head*  
24                        *Start Act (42 U.S.C. 9831 et seq.);*

1           (B) a State licensed or regulated child care  
2           program or school; or

3           (C) a State prekindergarten program that  
4           serves children from birth through kindergarten.

5           (2) *ESEA DEFINITIONS.*—The terms “local edu-  
6           cational agency”, “secondary school”, “elementary  
7           school”, and “parent” have the meanings given the  
8           terms in section 9101 of the Elementary and Sec-  
9           ondary Education Act of 1965 (20 U.S.C. 7801).

10          (3) *SCHOOL.*—The term “school” includes pub-  
11          lic—

12                 (A) kindergartens;

13                 (B) elementary schools; and

14                 (C) secondary schools.

15          (4) *SECRETARY.*—The term “Secretary” means  
16          the Secretary of Health and Human Services.

17          (b) *ESTABLISHMENT OF VOLUNTARY FOOD ALLERGY*  
18          *AND ANAPHYLAXIS MANAGEMENT GUIDELINES.*—

19                 (1) *ESTABLISHMENT.*—

20                         (A) *IN GENERAL.*—Not later than 1 year  
21                         after the date of enactment of this Act, the Sec-  
22                         retary, in consultation with the Secretary of  
23                         Education, shall—

24                                 (i) develop guidelines to be used on a  
25                                 voluntary basis to develop plans for indi-



1            *viduals to manage the risk of food allergy*  
2            *and anaphylaxis in schools and early child-*  
3            *hood education programs; and*

4            *(ii) make such guidelines available to*  
5            *local educational agencies, schools, early*  
6            *childhood education programs, and other*  
7            *interested entities and individuals to be im-*  
8            *plemented on a voluntary basis only.*

9            *(B) APPLICABILITY OF FERPA.—Each plan*  
10           *described in subparagraph (A) that is developed*  
11           *for an individual shall be considered an edu-*  
12           *cation record for the purpose of section 444 of the*  
13           *General Education Provisions Act (commonly re-*  
14           *ferred to as the “Family Educational Rights and*  
15           *Privacy Act of 1974”) (20 U.S.C. 1232g).*

16           *(2) CONTENTS.—The voluntary guidelines devel-*  
17           *oped by the Secretary under paragraph (1) shall ad-*  
18           *dress each of the following and may be updated as the*  
19           *Secretary determines necessary:*

20           *(A) Parental obligation to provide the*  
21           *school or early childhood education program,*  
22           *prior to the start of every school year, with—*

23           *(i) documentation from their child’s*  
24           *physician or nurse—*

- 1                   (I) supporting a diagnosis of food  
2                   allergy, and any risk of anaphylaxis, if  
3                   applicable;
- 4                   (II) identifying any food to which  
5                   the child is allergic;
- 6                   (III) describing, if appropriate,  
7                   any prior history of anaphylaxis;
- 8                   (IV) listing any medication pre-  
9                   scribed for the child for the treatment  
10                  of anaphylaxis;
- 11                  (V) detailing emergency treatment  
12                  procedures in the event of a reaction;
- 13                  (VI) listing the signs and symp-  
14                  toms of a reaction; and
- 15                  (VII) assessing the child's readi-  
16                  ness for self-administration of prescrip-  
17                  tion medication; and
- 18                  (ii) a list of substitute meals that may  
19                  be offered to the child by school or early  
20                  childhood education program food service  
21                  personnel.
- 22                  (B) The creation and maintenance of an in-  
23                  dividual plan for food allergy management, in  
24                  consultation with the parent, tailored to the  
25                  needs of each child with a documented risk for

1           *anaphylaxis, including any procedures for the*  
2           *self-administration of medication by such chil-*  
3           *dren in instances where—*

4                     *(i) the children are capable of self-ad-*  
5                     *ministering medication; and*

6                     *(ii) such administration is not prohib-*  
7                     *ited by State law.*

8           *(C) Communication strategies between indi-*  
9           *vidual schools or early childhood education pro-*  
10          *grams and providers of emergency medical serv-*  
11          *ices, including appropriate instructions for*  
12          *emergency medical response.*

13          *(D) Strategies to reduce the risk of exposure*  
14          *to anaphylactic causative agents in classrooms*  
15          *and common school or early childhood education*  
16          *program areas such as cafeterias.*

17          *(E) The dissemination of general informa-*  
18          *tion on life-threatening food allergies to school or*  
19          *early childhood education program staff, parents,*  
20          *and children.*

21          *(F) Food allergy management training of*  
22          *school or early childhood education program per-*  
23          *sonnel who regularly come into contact with chil-*  
24          *dren with life-threatening food allergies.*

1           (G) *The authorization and training of*  
2 *school or early childhood education program per-*  
3 *sonnel to administer epinephrine when the nurse*  
4 *is not immediately available.*

5           (H) *The timely accessibility of epinephrine*  
6 *by school or early childhood education program*  
7 *personnel when the nurse is not immediately*  
8 *available.*

9           (I) *The creation of a plan contained in each*  
10 *individual plan for food allergy management*  
11 *that addresses the appropriate response to an in-*  
12 *cident of anaphylaxis of a child while such child*  
13 *is engaged in extracurricular programs of a*  
14 *school or early childhood education program,*  
15 *such as nonacademic outings and field trips,*  
16 *before- and after-school programs or before- and*  
17 *after-early child education program programs,*  
18 *and school-sponsored or early childhood edu-*  
19 *cation program-sponsored programs held on*  
20 *weekends.*

21           (J) *Maintenance of information for each*  
22 *administration of epinephrine to a child at risk*  
23 *for anaphylaxis and prompt notification to par-*  
24 *ents.*

1           (K) *Other elements the Secretary determines*  
2           *necessary for the management of food allergies*  
3           *and anaphylaxis in schools and early childhood*  
4           *education programs.*

5           (3) *RELATION TO STATE LAW.—Nothing in this*  
6           *section or the guidelines developed by the Secretary*  
7           *under paragraph (1) shall be construed to preempt*  
8           *State law, including any State law regarding whether*  
9           *students at risk for anaphylaxis may self-administer*  
10          *medication.*

11          (c) *SCHOOL-BASED FOOD ALLERGY MANAGEMENT*  
12          *GRANTS.—*

13               (1) *IN GENERAL.—The Secretary may award*  
14               *grants to local educational agencies to assist such*  
15               *agencies with implementing voluntary food allergy*  
16               *and anaphylaxis management guidelines described in*  
17               *subsection (b).*

18               (2) *APPLICATION.—*

19                       (A) *IN GENERAL.—To be eligible to receive*  
20                       *a grant under this subsection, a local edu-*  
21                       *cational agency shall submit an application to*  
22                       *the Secretary at such time, in such manner, and*  
23                       *including such information as the Secretary may*  
24                       *reasonably require.*

1           (B) *CONTENTS.—Each application sub-*  
2           *mitted under subparagraph (A) shall include—*

3                   (i) *an assurance that the local edu-*  
4                   *cational agency has developed plans in ac-*  
5                   *cordance with the food allergy and anaphy-*  
6                   *laxis management guidelines described in*  
7                   *subsection (b);*

8                   (ii) *a description of the activities to be*  
9                   *funded by the grant in carrying out the*  
10                   *food allergy and anaphylaxis management*  
11                   *guidelines, including—*

12                           (I) *how the guidelines will be car-*  
13                           *ried out at individual schools served by*  
14                           *the local educational agency;*

15                           (II) *how the local educational*  
16                           *agency will inform parents and stu-*  
17                           *dents of the guidelines in place;*

18                           (III) *how school nurses, teachers,*  
19                           *administrators, and other school-based*  
20                           *staff will be made aware of, and given*  
21                           *training on, when applicable, the*  
22                           *guidelines in place; and*

23                           (IV) *any other activities that the*  
24                           *Secretary determines appropriate;*

1                   (iii) an itemization of how grant funds  
2                   received under this subsection will be ex-  
3                   pended;

4                   (iv) a description of how adoption of  
5                   the guidelines and implementation of grant  
6                   activities will be monitored; and

7                   (v) an agreement by the local edu-  
8                   cational agency to report information re-  
9                   quired by the Secretary to conduct evalua-  
10                  tions under this subsection.

11                 (3) *USE OF FUNDS.*—Each local educational  
12                 agency that receives a grant under this subsection  
13                 may use the grant funds for the following:

14                   (A) Purchase of materials and supplies, in-  
15                   cluding limited medical supplies such as epi-  
16                   nephrine and disposable wet wipes, to support  
17                   carrying out the food allergy and anaphylaxis  
18                   management guidelines described in subsection  
19                   (b).

20                   (B) In partnership with local health depart-  
21                   ments, school nurse, teacher, and personnel  
22                   training for food allergy management.

23                   (C) Programs that educate students as to  
24                   the presence of, and policies and procedures in

1           *place related to, food allergies and anaphylactic*  
2           *shock.*

3           *(D) Outreach to parents.*

4           *(E) Any other activities consistent with the*  
5           *guidelines described in subsection (b).*

6           *(4) DURATION OF AWARDS.—The Secretary may*  
7           *award grants under this subsection for a period of not*  
8           *more than 2 years. In the event the Secretary con-*  
9           *ducts a program evaluation under this subsection,*  
10          *funding in the second year of the grant, where appli-*  
11          *cable, shall be contingent on a successful program*  
12          *evaluation by the Secretary after the first year.*

13          *(5) LIMITATION ON GRANT FUNDING.—The Sec-*  
14          *retary may not provide grant funding to a local edu-*  
15          *cational agency under this subsection after such local*  
16          *educational agency has received 2 years of grant*  
17          *funding under this subsection.*

18          *(6) MAXIMUM AMOUNT OF ANNUAL AWARDS.—A*  
19          *grant awarded under this subsection may not be*  
20          *made in an amount that is more than \$50,000 annu-*  
21          *ally.*

22          *(7) PRIORITY.—In awarding grants under this*  
23          *subsection, the Secretary shall give priority to local*  
24          *educational agencies with the highest percentages of*  
25          *children who are counted under section 1124(c) of the*



1 *Elementary and Secondary Education Act of 1965*  
2 *(20 U.S.C. 6333(c)).*

3 (8) *MATCHING FUNDS.*—

4 (A) *IN GENERAL.*—*The Secretary may not*  
5 *award a grant under this subsection unless the*  
6 *local educational agency agrees that, with respect*  
7 *to the costs to be incurred by such local edu-*  
8 *cational agency in carrying out the grant activi-*  
9 *ties, the local educational agency shall make*  
10 *available (directly or through donations from*  
11 *public or private entities) non-Federal funds to-*  
12 *ward such costs in an amount equal to not less*  
13 *than 25 percent of the amount of the grant.*

14 (B) *DETERMINATION OF AMOUNT OF NON-*  
15 *FEDERAL CONTRIBUTION.*—*Non-Federal funds*  
16 *required under subparagraph (A) may be cash or*  
17 *in kind, including plant, equipment, or services.*  
18 *Amounts provided by the Federal Government,*  
19 *and any portion of any service subsidized by the*  
20 *Federal Government, may not be included in de-*  
21 *termining the amount of such non-Federal funds.*

22 (9) *ADMINISTRATIVE FUNDS.*—*A local edu-*  
23 *cational agency that receives a grant under this sub-*  
24 *section may use not more than 2 percent of the grant*

1        *amount for administrative costs related to carrying*  
2        *out this subsection.*

3            (10) *PROGRESS AND EVALUATIONS.*—*At the com-*  
4        *pletion of the grant period referred to in paragraph*  
5        *(4), a local educational agency shall provide the Sec-*  
6        *retary with information on how grant funds were*  
7        *spent and the status of implementation of the food al-*  
8        *lergy and anaphylaxis management guidelines de-*  
9        *scribed in subsection (b).*

10           (11) *SUPPLEMENT, NOT SUPPLANT.*—*Grant*  
11        *funds received under this subsection shall be used to*  
12        *supplement, and not supplant, non-Federal funds and*  
13        *any other Federal funds available to carry out the ac-*  
14        *tivities described in this subsection.*

15           (12) *AUTHORIZATION OF APPROPRIATIONS.*—  
16        *There is authorized to be appropriated to carry out*  
17        *this subsection \$30,000,000 for fiscal year 2011 and*  
18        *such sums as may be necessary for each of the 4 suc-*  
19        *ceeding fiscal years.*

20           (d) *VOLUNTARY NATURE OF GUIDELINES.*—

21           (1) *IN GENERAL.*—*The food allergy and anaphy-*  
22        *laxis management guidelines developed by the Sec-*  
23        *retary under subsection (b) are voluntary. Nothing in*  
24        *this section or the guidelines developed by the Sec-*  
25        *retary under subsection (b) shall be construed to re-*

1        *quire a local educational agency to implement such*  
2        *guidelines.*

3            (2) *EXCEPTION.—Notwithstanding paragraph*  
4        *(1), the Secretary may enforce an agreement by a*  
5        *local educational agency to implement food allergy*  
6        *and anaphylaxis management guidelines as a condi-*  
7        *tion of the receipt of a grant under subsection (c).*

8        **SEC. 6113. NEW DIETARY INGREDIENTS.**

9            (a) *IN GENERAL.—Section 413 of the Federal Food,*  
10        *Drug, and Cosmetic Act (21 U.S.C. 350b) is amended—*

11            (1) *by redesignating subsection (c) as subsection*  
12        *(d); and*

13            (2) *by inserting after subsection (b) the fol-*  
14        *lowing:*

15        “(c) *NOTIFICATION.—*

16            “(1) *IN GENERAL.—If the Secretary determines*  
17        *that the information in a new dietary ingredient no-*  
18        *tification submitted under this section for an article*  
19        *purported to be a new dietary ingredient is inad-*  
20        *equiate to establish that a dietary supplement con-*  
21        *taining such article will reasonably be expected to be*  
22        *safe because the article may be, or may contain, an*  
23        *anabolic steroid or an analogue of an anabolic ster-*  
24        *oid, the Secretary shall notify the Drug Enforcement*  
25        *Administration of such determination. Such notifica-*

1        *tion by the Secretary shall include, at a minimum,*  
2        *the name of the dietary supplement or article, the*  
3        *name of the person or persons who marketed the prod-*  
4        *uct or made the submission of information regarding*  
5        *the article to the Secretary under this section, and*  
6        *any contact information for such person or persons*  
7        *that the Secretary has.*

8                *“(2) DEFINITIONS.—For purposes of this sub-*  
9        *section—*

10                *“(A) the term ‘anabolic steroid’ has the*  
11                *meaning given such term in section 102(41) of*  
12                *the Controlled Substances Act; and*

13                *“(B) the term ‘analogue of an anabolic ster-*  
14                *oid’ means a substance whose chemical structure*  
15                *is substantially similar to the chemical structure*  
16                *of an anabolic steroid.”.*

17                *(b) GUIDANCE.—Not later than 180 days after the date*  
18        *of enactment of this Act, the Secretary shall publish guid-*  
19        *ance that clarifies when a dietary supplement ingredient*  
20        *is a new dietary ingredient, when the manufacturer or dis-*  
21        *tributor of a dietary ingredient or dietary supplement*  
22        *should provide the Secretary with information as described*  
23        *in section 413(a)(2) of the Federal Food, Drug, and Cos-*  
24        *metic Act, the evidence needed to document the safety of new*

1 *dietary ingredients, and appropriate methods for estab-*  
2 *lishing the identify of a new dietary ingredient.*

3 **SEC. 6114. REQUIREMENT FOR GUIDANCE RELATING TO**  
4 **POST-HARVEST PROCESSING OF RAW OYS-**  
5 **TERS.**

6 (a) *IN GENERAL.*—*Not later than 90 days prior to the*  
7 *issuance of any guidance, regulation, or suggested amend-*  
8 *ment by the Food and Drug Administration to the National*  
9 *Shellfish Sanitation Program’s Model Ordinance, or the*  
10 *issuance of any guidance or regulation by the Food and*  
11 *Drug Administration relating to the Seafood Hazard Anal-*  
12 *ysis Critical Control Points Program of the Food and Drug*  
13 *Administration (parts 123 and 1240 of title 21, Code of*  
14 *Federal Regulations (or any successor regulations), where*  
15 *such guidance, regulation, or suggested amendment relates*  
16 *to post-harvest processing for raw oysters, the Secretary*  
17 *shall prepare and submit to the Committee on Health, Edu-*  
18 *cation, Labor, and Pensions of the Senate and the Com-*  
19 *mittee on Energy and Commerce of the House of Represent-*  
20 *atives a report which shall include—*

21 (1) *an assessment of how post-harvest processing*  
22 *or other equivalent controls feasibly may be imple-*  
23 *mented in the fastest, safest, and most economical*  
24 *manner;*

1           (2) *the projected public health benefits of any*  
2           *proposed post-harvest processing;*

3           (3) *the projected costs of compliance with such*  
4           *post-harvest processing measures;*

5           (4) *the impact post-harvest processing is expected*  
6           *to have on the sales, cost, and availability of raw oys-*  
7           *ters;*

8           (5) *criteria for ensuring post-harvest processing*  
9           *standards will be applied equally to shellfish imported*  
10          *from all nations of origin;*

11          (6) *an evaluation of alternative measures to pre-*  
12          *vent, eliminate, or reduce to an acceptable level the*  
13          *occurrence of foodborne illness; and*

14          (7) *the extent to which the Food and Drug Ad-*  
15          *ministration has consulted with the States and other*  
16          *regulatory agencies, as appropriate, with regard to*  
17          *post-harvest processing measures.*

18          (b) *LIMITATION.*—*Subsection (a) shall not apply to the*  
19          *guidance described in section 6103(h).*

20          (c) *REVIEW AND EVALUATION.*—*Not later than 30*  
21          *days after the Secretary issues a proposed regulation or*  
22          *guidance described in subsection (a), the Comptroller Gen-*  
23          *eral of the United States shall—*

1           (1) review and evaluate the report described in  
2           subsection (a) and report to Congress on the findings  
3           of the estimates and analysis in the report;

4           (2) compare such proposed regulation or guid-  
5           ance to similar regulations or guidance with respect  
6           to other regulated foods, including a comparison of  
7           risks the Secretary may find associated with seafood  
8           and the instances of those risks in such other regu-  
9           lated foods; and

10          (3) evaluate the impact of post-harvest processing  
11          on the competitiveness of the domestic oyster industry  
12          in the United States and in international markets.

13          (d) *WAIVER.*—The requirement of preparing a report  
14          under subsection (a) shall be waived if the Secretary issues  
15          a guidance that is adopted as a consensus agreement be-  
16          tween Federal and State regulators and the oyster industry,  
17          acting through the Interstate Shellfish Sanitation Con-  
18          ference.

19          (e) *PUBLIC ACCESS.*—Any report prepared under this  
20          section shall be made available to the public.

21          **SEC. 6115. PORT SHOPPING.**

22          Until the date on which the Secretary promulgates a  
23          final rule that implements the amendments made by section  
24          308 of the Public Health Security and Bioterrorism Pre-  
25          paredness and Response Act of 2002 (Public Law 107–188),

1 *the Secretary shall notify the Secretary of Homeland Secu-*  
2 *urity of all instances in which the Secretary refuses to admit*  
3 *a food into the United States under section 801(a) of the*  
4 *Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a))*  
5 *so that the Secretary of Homeland Security, acting through*  
6 *the Commissioner of Customs and Border Protection, may*  
7 *prevent food refused admittance into the United States by*  
8 *a United States port of entry from being admitted by an-*  
9 *other United States port of entry, through the notification*  
10 *of other such United States ports of entry.*

11 **SEC. 6116. ALCOHOL-RELATED FACILITIES.**

12 *(a) IN GENERAL.—Except as provided by sections*  
13 *6102, 6206, 6207, 6302, 6304, 6402, 6403, and 6404 of this*  
14 *Act, and the amendments made by such sections, nothing*  
15 *in this Act, or the amendments made by this Act, shall be*  
16 *construed to apply to a facility that—*

17 *(1) under the Federal Alcohol Administration*  
18 *Act (27 U.S.C. 201 et seq.) or chapter 51 of subtitle*  
19 *E of the Internal Revenue Code of 1986 (26 U.S.C.*  
20 *5001 et seq.) is required to obtain a permit or to reg-*  
21 *ister with the Secretary of the Treasury as a condi-*  
22 *tion of doing business in the United States; and*

23 *(2) under section 415 of the Federal Food, Drug,*  
24 *and Cosmetic Act (21 U.S.C. 350d) is required to reg-*  
25 *ister as a facility because such facility is engaged in*



1        *manufacturing, processing, packing, or holding 1 or*  
2        *more alcoholic beverages, with respect to the activities*  
3        *of such facility that relate to the manufacturing,*  
4        *processing, packing, or holding of alcoholic beverages.*

5        *(b) LIMITED RECEIPT AND DISTRIBUTION OF NON-*  
6        *ALCOHOL FOOD.—Subsection (a) shall not apply to a facil-*  
7        *ity engaged in the receipt and distribution of any non-*  
8        *alcohol food, except that such paragraph shall apply to a*  
9        *facility described in such paragraph that receives and dis-*  
10       *tributes nonalcohol food, provided such food is received and*  
11       *distributed—*

12                *(1) in a prepackaged form that prevents any di-*  
13        *rect human contact with such food; and*

14                *(2) in amounts that constitute not more than 5*  
15        *percent of the overall sales of such facility, as deter-*  
16        *mined by the Secretary of the Treasury.*

17        *(c) RULE OF CONSTRUCTION.—Except as provided in*  
18        *subsections (a) and (b), this section shall not be construed*  
19        *to exempt any food, other than alcoholic beverages, as de-*  
20        *finied in section 214 of the Federal Alcohol Administration*  
21        *Act (27 U.S.C. 214), from the requirements of this Act (in-*  
22        *cluding the amendments made by this Act).*

1 **TITLE II—IMPROVING CAPACITY**  
2 **TO DETECT AND RESPOND TO**  
3 **FOOD SAFETY PROBLEMS**

4 **SEC. 6201. TARGETING OF INSPECTION RESOURCES FOR**  
5 **DOMESTIC FACILITIES, FOREIGN FACILITIES,**  
6 **AND PORTS OF ENTRY; ANNUAL REPORT.**

7 *(a) TARGETING OF INSPECTION RESOURCES FOR DO-*  
8 *MESTIC FACILITIES, FOREIGN FACILITIES, AND PORTS OF*  
9 *ENTRY.—Chapter IV (21 U.S.C. 341 et seq.), as amended*  
10 *by section 6106, is amended by adding at the end the fol-*  
11 *lowing:*

12 **“SEC. 421. TARGETING OF INSPECTION RESOURCES FOR**  
13 **DOMESTIC FACILITIES, FOREIGN FACILITIES,**  
14 **AND PORTS OF ENTRY; ANNUAL REPORT.**

15 *“(a) IDENTIFICATION AND INSPECTION OF FACILI-*  
16 *TIES.—*

17 *“(1) IDENTIFICATION.—The Secretary shall iden-*  
18 *tify high-risk facilities and shall allocate resources to*  
19 *inspect facilities according to the known safety risks*  
20 *of the facilities, which shall be based on the following*  
21 *factors:*

22 *“(A) The known safety risks of the food*  
23 *manufactured, processed, packed, or held at the*  
24 *facility.*

1           “(B) *The compliance history of a facility,*  
2 *including with regard to food recalls, outbreaks*  
3 *of foodborne illness, and violations of food safety*  
4 *standards.*

5           “(C) *The rigor and effectiveness of the fa-*  
6 *cility’s hazard analysis and risk-based preven-*  
7 *tive controls.*

8           “(D) *Whether the food manufactured, proc-*  
9 *essed, packed, or held at the facility meets the*  
10 *criteria for priority under section 801(h)(1).*

11           “(E) *Whether the food or the facility that*  
12 *manufactured, processed, packed, or held such*  
13 *food has received a certification as described in*  
14 *section 801(q) or 806, as appropriate.*

15           “(F) *Any other criteria deemed necessary*  
16 *and appropriate by the Secretary for purposes of*  
17 *allocating inspection resources.*

18           “(2) *INSPECTIONS.—*

19           “(A) *IN GENERAL.—Beginning on the date*  
20 *of enactment of the FDA Food Safety Moderniza-*  
21 *tion Act, the Secretary shall increase the fre-*  
22 *quency of inspection of all facilities.*

23           “(B) *DOMESTIC HIGH-RISK FACILITIES.—*  
24 *The Secretary shall increase the frequency of in-*  
25 *spection of domestic facilities identified under*

1 paragraph (1) as high-risk facilities such that  
2 each such facility is inspected—

3 “(i) not less often than once in the 5-  
4 year period following the date of enactment  
5 of the FDA Food Safety Modernization Act;  
6 and

7 “(ii) not less often than once every 3  
8 years thereafter.

9 “(C) DOMESTIC NON-HIGH-RISK FACILI-  
10 TIES.—The Secretary shall ensure that each do-  
11 mestic facility that is not identified under para-  
12 graph (1) as a high-risk facility is inspected—

13 “(i) not less often than once in the 7-  
14 year period following the date of enactment  
15 of the FDA Food Safety Modernization Act;  
16 and

17 “(ii) not less often than once every 5  
18 years thereafter.

19 “(D) FOREIGN FACILITIES.—

20 “(i) YEAR 1.—In the 1-year period fol-  
21 lowing the date of enactment of the FDA  
22 Food Safety Modernization Act, the Sec-  
23 retary shall inspect not fewer than 600 for-  
24 eign facilities.

1                   “(i) *SUBSEQUENT YEARS.*—In each of  
2                   the 5 years following the 1-year period de-  
3                   scribed in clause (i), the Secretary shall in-  
4                   spect not fewer than twice the number of  
5                   foreign facilities inspected by the Secretary  
6                   during the previous year.

7                   “(E) *RELIANCE ON FEDERAL, STATE, OR*  
8                   *LOCAL INSPECTIONS.*—In meeting the inspection  
9                   requirements under this subsection for domestic  
10                  facilities, the Secretary may rely on inspections  
11                  conducted by other Federal, State, or local agen-  
12                  cies under interagency agreements, contracts,  
13                  memoranda of understanding, or other obliga-  
14                  tions.

15                  “(b) *IDENTIFICATION AND INSPECTION AT PORTS OF*  
16                  *ENTRY.*—The Secretary, in consultation with the Secretary  
17                  of Homeland Security, shall allocate resources to inspect  
18                  any article of food imported into the United States accord-  
19                  ing to the known safety risks of the article of food, which  
20                  shall be based on the following factors:

21                         “(1) *The known safety risks of the food imported.*

22                         “(2) *The known safety risks of the countries or*  
23                         *regions of origin and countries through which such*  
24                         *article of food is transported.*

1           “(3) *The compliance history of the importer, in-*  
2           *cluding with regard to food recalls, outbreaks of*  
3           *foodborne illness, and violations of food safety stand-*  
4           *ards.*

5           “(4) *The rigor and effectiveness of the activities*  
6           *conducted by the importer of such article of food to*  
7           *satisfy the requirements of the foreign supplier*  
8           *verification program under section 805.*

9           “(5) *Whether the food importer participates in*  
10          *the voluntary qualified importer program under sec-*  
11          *tion 806.*

12          “(6) *Whether the food meets the criteria for pri-*  
13          *ority under section 801(h)(1).*

14          “(7) *Whether the food or the facility that manu-*  
15          *factured, processed, packed, or held such food received*  
16          *a certification as described in section 801(q) or 806.*

17          “(8) *Any other criteria deemed necessary and*  
18          *appropriate by the Secretary for purposes of allo-*  
19          *cating inspection resources.*

20          “(c) *INTERAGENCY AGREEMENTS WITH RESPECT TO*  
21          *SEAFOOD.—*

22          “(1) *IN GENERAL.—The Secretary of Health and*  
23          *Human Services, the Secretary of Commerce, the Sec-*  
24          *retary of Homeland Security, the Chairman of the*  
25          *Federal Trade Commission, and the heads of other*

1       *appropriate agencies may enter into such agreements*  
2       *as may be necessary or appropriate to improve sea-*  
3       *food safety.*

4               “(2) *SCOPE OF AGREEMENTS.*—*The agreements*  
5       *under paragraph (1) may include—*

6                       “(A) *cooperative arrangements for exam-*  
7       *ining and testing seafood imports that leverage*  
8       *the resources, capabilities, and authorities of*  
9       *each party to the agreement;*

10                      “(B) *coordination of inspections of foreign*  
11       *facilities to increase the percentage of imported*  
12       *seafood and seafood facilities inspected;*

13                      “(C) *standardization of data on seafood*  
14       *names, inspection records, and laboratory testing*  
15       *to improve interagency coordination;*

16                      “(D) *coordination to detect and investigate*  
17       *violations under applicable Federal law;*

18                      “(E) *a process, including the use or modi-*  
19       *fication of existing processes, by which officers*  
20       *and employees of the National Oceanic and At-*  
21       *mospheric Administration may be duly des-*  
22       *ignated by the Secretary to carry out seafood ex-*  
23       *aminations and investigations under section 801*  
24       *of this Act or section 203 of the Food Allergen*  
25       *Labeling and Consumer Protection Act of 2004;*

1           “(F) the sharing of information concerning  
2           observed noncompliance with United States food  
3           requirements domestically and in foreign nations  
4           and new regulatory decisions and policies that  
5           may affect the safety of food imported into the  
6           United States;

7           “(G) conducting joint training on subjects  
8           that affect and strengthen seafood inspection ef-  
9           fectiveness by Federal authorities; and

10           “(H) outreach on Federal efforts to enhance  
11           seafood safety and compliance with Federal food  
12           safety requirements.

13           “(d) COORDINATION.—The Secretary shall improve co-  
14           ordination and cooperation with the Secretary of Agri-  
15           culture and the Secretary of Homeland Security to target  
16           food inspection resources.

17           “(e) FACILITY.—For purposes of this section, the term  
18           ‘facility’ means a domestic facility or a foreign facility that  
19           is required to register under section 415.”.

20           “(b) ANNUAL REPORT.—Section 1003 (21 U.S.C. 393)  
21           is amended by adding at the end the following:

22           “(h) ANNUAL REPORT REGARDING FOOD.—Not later  
23           than February 1 of each year, the Secretary shall submit  
24           to Congress a report, including efforts to coordinate and



1 *cooperate with other Federal agencies with responsibilities*  
2 *for food inspections, regarding—*

3           “(1) *information about food facilities includ-*  
4 *ing—*

5                   “(A) *the appropriations used to inspect fa-*  
6 *cilities registered pursuant to section 415 in the*  
7 *previous fiscal year;*

8                   “(B) *the average cost of both a non-high-*  
9 *risk food facility inspection and a high-risk food*  
10 *facility inspection, if such a difference exists, in*  
11 *the previous fiscal year;*

12                   “(C) *the number of domestic facilities and*  
13 *the number of foreign facilities registered pursu-*  
14 *ant to section 415 that the Secretary inspected in*  
15 *the previous fiscal year;*

16                   “(D) *the number of domestic facilities and*  
17 *the number of foreign facilities registered pursu-*  
18 *ant to section 415 that were scheduled for inspec-*  
19 *tion in the previous fiscal year and which the*  
20 *Secretary did not inspect in such year;*

21                   “(E) *the number of high-risk facilities iden-*  
22 *tified pursuant to section 421 that the Secretary*  
23 *inspected in the previous fiscal year; and*

24                   “(F) *the number of high-risk facilities iden-*  
25 *tified pursuant to section 421 that were sched-*

1            *uled for inspection in the previous fiscal year*  
2            *and which the Secretary did not inspect in such*  
3            *year.*

4            *“(2) information about food imports including—*

5                    *“(A) the number of lines of food imported*  
6                    *into the United States that the Secretary phys-*  
7                    *ically inspected or sampled in the previous fiscal*  
8                    *year;*

9                    *“(B) the number of lines of food imported*  
10                   *into the United States that the Secretary did not*  
11                   *physically inspect or sample in the previous fis-*  
12                   *cal year; and*

13                   *“(C) the average cost of physically inspect-*  
14                   *ing or sampling a line of food subject to this Act*  
15                   *that is imported or offered for import into the*  
16                   *United States; and*

17            *“(3) information on the foreign offices of the*  
18            *Food and Drug Administration including—*

19                    *“(A) the number of foreign offices estab-*  
20                    *lished; and*

21                    *“(B) the number of personnel permanently*  
22                    *stationed in each foreign office.*

23            *“(i) PUBLIC AVAILABILITY OF ANNUAL FOOD RE-*  
24            *PORTS.—The Secretary shall make the reports required*

1 *under subsection (h) available to the public on the Internet*  
2 *Web site of the Food and Drug Administration.”.*

3 (c) *ADVISORY COMMITTEE CONSULTATION.—In allo-*  
4 *cating inspection resources as described in section 421 of*  
5 *the Federal Food, Drug, and Cosmetic Act (as added by*  
6 *subsection (a)), the Secretary may, as appropriate, consult*  
7 *with any relevant advisory committee within the Depart-*  
8 *ment of Health and Human Services.*

9 **SEC. 6202. LABORATORY ACCREDITATION FOR ANALYSES**  
10 **OF FOODS.**

11 (a) *IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.),*  
12 *as amended by section 6201, is amended by adding at the*  
13 *end the following:*

14 **“SEC. 422. LABORATORY ACCREDITATION FOR ANALYSES**  
15 **OF FOODS.**

16 **“(a) RECOGNITION OF LABORATORY ACCREDITA-**  
17 **TION.—**

18 **“(1) IN GENERAL.—Not later than 2 years after**  
19 **the date of enactment of the FDA Food Safety Mod-**  
20 **ernization Act, the Secretary shall—**

21 **“(A) establish a program for the testing of**  
22 **food by accredited laboratories;**

23 **“(B) establish a publicly available registry**  
24 **of accreditation bodies recognized by the Sec-**  
25 **retary and laboratories accredited by a recog-**

1           nized accreditation body, including the name of,  
2           contact information for, and other information  
3           deemed appropriate by the Secretary about such  
4           bodies and laboratories; and

5           “(C) require, as a condition of recognition  
6           or accreditation, as appropriate, that recognized  
7           accreditation bodies and accredited laboratories  
8           report to the Secretary any changes that would  
9           affect the recognition of such accreditation body  
10          or the accreditation of such laboratory.

11          “(2) *PROGRAM REQUIREMENTS.*—The program  
12          established under paragraph (1)(A) shall provide for  
13          the recognition of laboratory accreditation bodies that  
14          meet criteria established by the Secretary for accredi-  
15          tation of laboratories, including independent private  
16          laboratories and laboratories run and operated by a  
17          Federal agency (including the Department of Com-  
18          merce), State, or locality with a demonstrated capa-  
19          bility to conduct 1 or more sampling and analytical  
20          testing methodologies for food.

21          “(3) *INCREASING THE NUMBER OF QUALIFIED*  
22          *LABORATORIES.*—The Secretary shall work with the  
23          laboratory accreditation bodies recognized under  
24          paragraph (1), as appropriate, to increase the num-  
25          ber of qualified laboratories that are eligible to per-

1 *form testing under subsection (b) beyond the number*  
2 *so qualified on the date of enactment of the FDA Food*  
3 *Safety Modernization Act.*

4 “(4) *LIMITED DISTRIBUTION.*—*In the interest of*  
5 *national security, the Secretary, in coordination with*  
6 *the Secretary of Homeland Security, may determine*  
7 *the time, manner, and form in which the registry es-*  
8 *tablished under paragraph (1)(B) is made publicly*  
9 *available.*

10 “(5) *FOREIGN LABORATORIES.*—*Accreditation*  
11 *bodies recognized by the Secretary under paragraph*  
12 *(1) may accredit laboratories that operate outside the*  
13 *United States, so long as such laboratories meet the*  
14 *accreditation standards applicable to domestic labora-*  
15 *tories accredited under this section.*

16 “(6) *MODEL LABORATORY STANDARDS.*—*The*  
17 *Secretary shall develop model standards that a lab-*  
18 *oratory shall meet to be accredited by a recognized ac-*  
19 *creditation body for a specified sampling or analyt-*  
20 *ical testing methodology and included in the registry*  
21 *provided for under paragraph (1). In developing the*  
22 *model standards, the Secretary shall consult existing*  
23 *standards for guidance. The model standards shall in-*  
24 *clude—*

25 “(A) *methods to ensure that—*

1           “(i) appropriate sampling, analytical  
2           procedures (including rapid analytical pro-  
3           cedures), and commercially available tech-  
4           niques are followed and reports of analyses  
5           are certified as true and accurate;

6           “(ii) internal quality systems are es-  
7           tablished and maintained;

8           “(iii) procedures exist to evaluate and  
9           respond promptly to complaints regarding  
10          analyses and other activities for which the  
11          laboratory is accredited; and

12          “(iv) individuals who conduct the sam-  
13          pling and analyses are qualified by train-  
14          ing and experience to do so; and

15          “(B) any other criteria determined appro-  
16          priate by the Secretary.

17          “(7) REVIEW OF RECOGNITION.—To ensure com-  
18          pliance with the requirements of this section, the Sec-  
19          retary—

20                 “(A) shall periodically, and in no case less  
21                 than once every 5 years, reevaluate accreditation  
22                 bodies recognized under paragraph (1) and may  
23                 accompany auditors from an accreditation body  
24                 to assess whether the accreditation body meets  
25                 the criteria for recognition; and

1           “(B) shall promptly revoke the recognition  
2           of any accreditation body found not to be in  
3           compliance with the requirements of this section,  
4           specifying, as appropriate, any terms and condi-  
5           tions necessary for laboratories accredited by  
6           such body to continue to perform testing as de-  
7           scribed in this section.

8           “(b) TESTING PROCEDURES.—

9           “(1) IN GENERAL.—Not later than 30 months  
10          after the date of enactment of the FDA Food Safety  
11          Modernization Act, food testing shall be conducted by  
12          Federal laboratories or non-Federal laboratories that  
13          have been accredited for the appropriate sampling or  
14          analytical testing methodology or methodologies by a  
15          recognized accreditation body on the registry estab-  
16          lished by the Secretary under subsection (a)(1)(B)  
17          whenever such testing is conducted—

18                 “(A) by or on behalf of an owner or con-  
19                 signee—

20                         “(i) in response to a specific testing re-  
21                         quirement under this Act or implementing  
22                         regulations, when applied to address an  
23                         identified or suspected food safety problem;  
24                         and

1                   “(ii) as required by the Secretary, as  
2                   the Secretary deems appropriate, to address  
3                   an identified or suspected food safety prob-  
4                   lem; or

5                   “(B) on behalf of an owner or consignee—

6                   “(i) in support of admission of an ar-  
7                   ticle of food under section 801(a); and

8                   “(ii) under an Import Alert that re-  
9                   quires successful consecutive tests.

10                  “(2) *RESULTS OF TESTING.*—The results of any  
11                  such testing shall be sent directly to the Food and  
12                  Drug Administration, except the Secretary may by  
13                  regulation exempt test results from such submission  
14                  requirement if the Secretary determines that such re-  
15                  sults do not contribute to the protection of public  
16                  health. Test results required to be submitted may be  
17                  submitted to the Food and Drug Administration  
18                  through electronic means.

19                  “(3) *EXCEPTION.*—The Secretary may waive re-  
20                  quirements under this subsection if—

21                  “(A) a new methodology or methodologies  
22                  have been developed and validated but a labora-  
23                  tory has not yet been accredited to perform such  
24                  methodology or methodologies; and



1           “(B) the use of such methodology or meth-  
2           odologies are necessary to prevent, control, or  
3           mitigate a food emergency or foodborne illness  
4           outbreak.

5           “(c) *REVIEW BY SECRETARY.*—If food sampling and  
6           testing performed by a laboratory run and operated by a  
7           State or locality that is accredited by a recognized accredi-  
8           tation body on the registry established by the Secretary  
9           under subsection (a) result in a State recalling a food, the  
10          Secretary shall review the sampling and testing results for  
11          the purpose of determining the need for a national recall  
12          or other compliance and enforcement activities.

13          “(d) *NO LIMIT ON SECRETARIAL AUTHORITY.*—Noth-  
14          ing in this section shall be construed to limit the ability  
15          of the Secretary to review and act upon information from  
16          food testing, including determining the sufficiency of such  
17          information and testing.”.

18          “(b) *FOOD EMERGENCY RESPONSE NETWORK.*—The  
19          Secretary, in coordination with the Secretary of Agri-  
20          culture, the Secretary of Homeland Security, and State,  
21          local, and tribal governments shall, not later than 180 days  
22          after the date of enactment of this Act, and biennially there-  
23          after, submit to the relevant committees of Congress, and  
24          make publicly available on the Internet Web site of the De-  
25          partment of Health and Human Services, a report on the

1 *progress in implementing a national food emergency re-*  
2 *sponse laboratory network that—*

3           (1) *provides ongoing surveillance, rapid detec-*  
4 *tion, and surge capacity for large-scale food-related*  
5 *emergencies, including intentional adulteration of the*  
6 *food supply;*

7           (2) *coordinates the food laboratory capacities of*  
8 *State, local, and tribal food laboratories, including*  
9 *the adoption of novel surveillance and identification*  
10 *technologies and the sharing of data among Federal*  
11 *agencies and State laboratories to develop national*  
12 *situational awareness;*

13           (3) *provides accessible, timely, accurate, and*  
14 *consistent food laboratory services throughout the*  
15 *United States;*

16           (4) *develops and implements a methods reposi-*  
17 *tory for use by Federal, State, and local officials;*

18           (5) *responds to food-related emergencies; and*

19           (6) *is integrated with relevant laboratory net-*  
20 *works administered by other Federal agencies.*

21 **SEC. 6203. INTEGRATED CONSORTIUM OF LABORATORY**  
22 **NETWORKS.**

23           (a) *IN GENERAL.—The Secretary of Homeland Secu-*  
24 *rity, in coordination with the Secretary of Health and*  
25 *Human Services, the Secretary of Agriculture, the Secretary*

1 of Commerce, and the Administrator of the Environmental  
2 Protection Agency, shall maintain an agreement through  
3 which relevant laboratory network members, as determined  
4 by the Secretary of Homeland Security, shall—

5 (1) agree on common laboratory methods in  
6 order to reduce the time required to detect and re-  
7 spond to foodborne illness outbreaks and facilitate the  
8 sharing of knowledge and information relating to ani-  
9 mal health, agriculture, and human health;

10 (2) identify means by which laboratory network  
11 members could work cooperatively—

12 (A) to optimize national laboratory pre-  
13 paredness; and

14 (B) to provide surge capacity during emer-  
15 gencies; and

16 (3) engage in ongoing dialogue and build rela-  
17 tionships that will support a more effective and inte-  
18 grated response during emergencies.

19 (b) *REPORTING REQUIREMENT.*—The Secretary of  
20 Homeland Security shall, on a biennial basis, submit to  
21 the relevant committees of Congress, and make publicly  
22 available on the Internet Web site of the Department of  
23 Homeland Security, a report on the progress of the inte-  
24 grated consortium of laboratory networks, as established  
25 under subsection (a), in carrying out this section.

1 **SEC. 6204. ENHANCING TRACKING AND TRACING OF FOOD**  
2 **AND RECORDKEEPING.**

3 (a) *PILOT PROJECTS.*—

4 (1) *IN GENERAL.*—Not later than 270 days after  
5 the date of enactment of this Act, the Secretary of  
6 Health and Human Services (referred to in this sec-  
7 tion as the “Secretary”), taking into account rec-  
8 ommendations from the Secretary of Agriculture and  
9 representatives of State departments of health and ag-  
10 riculture, shall establish pilot projects in coordination  
11 with the food industry to explore and evaluate meth-  
12 ods to rapidly and effectively identify recipients of  
13 food to prevent or mitigate a foodborne illness out-  
14 break and to address credible threats of serious ad-  
15 verse health consequences or death to humans or ani-  
16 mals as a result of such food being adulterated under  
17 section 402 of the Federal Food, Drug, and Cosmetic  
18 Act (21 U.S.C. 342) or misbranded under section  
19 403(w) of such Act (21 U.S.C. 343(w)).

20 (2) *CONTENT.*—The Secretary shall conduct 1 or  
21 more pilot projects under paragraph (1) in coordina-  
22 tion with the processed food sector and 1 or more such  
23 pilot projects in coordination with processors or dis-  
24 tributors of fruits and vegetables that are raw agricul-  
25 tural commodities. The Secretary shall ensure that the  
26 pilot projects under paragraph (1) reflect the diver-

1 *sity of the food supply and include at least 3 different*  
2 *types of foods that have been the subject of significant*  
3 *outbreaks during the 5-year period preceding the date*  
4 *of enactment of this Act, and are selected in order*  
5 *to—*

6 *(A) develop and demonstrate methods for*  
7 *rapid and effective tracking and tracing of foods*  
8 *in a manner that is practicable for facilities of*  
9 *varying sizes, including small businesses;*

10 *(B) develop and demonstrate appropriate*  
11 *technologies, including technologies existing on*  
12 *the date of enactment of this Act, that enhance*  
13 *the tracking and tracing of food; and*

14 *(C) inform the promulgation of regulations*  
15 *under subsection (d).*

16 *(3) REPORT.—Not later than 18 months after the*  
17 *date of enactment of this Act, the Secretary shall re-*  
18 *port to Congress on the findings of the pilot projects*  
19 *under this subsection together with recommendations*  
20 *for improving the tracking and tracing of food.*

21 *(b) ADDITIONAL DATA GATHERING.—*

22 *(1) IN GENERAL.—The Secretary, in coordina-*  
23 *tion with the Secretary of Agriculture and multiple*  
24 *representatives of State departments of health and ag-*  
25 *riculture, shall assess—*

1           (A) *the costs and benefits associated with*  
2 *the adoption and use of several product tracing*  
3 *technologies, including technologies used in the*  
4 *pilot projects under subsection (a);*

5           (B) *the feasibility of such technologies for*  
6 *different sectors of the food industry, including*  
7 *small businesses; and*

8           (C) *whether such technologies are compat-*  
9 *ible with the requirements of this subsection.*

10          (2) *REQUIREMENTS.—To the extent practicable,*  
11 *in carrying out paragraph (1), the Secretary shall—*

12           (A) *evaluate domestic and international*  
13 *product tracing practices in commercial use;*

14           (B) *consider international efforts, including*  
15 *an assessment of whether product tracing re-*  
16 *quirements developed under this section are com-*  
17 *patible with global tracing systems, as appro-*  
18 *priate; and*

19           (C) *consult with a diverse and broad range*  
20 *of experts and stakeholders, including representa-*  
21 *tives of the food industry, agricultural producers,*  
22 *and nongovernmental organizations that rep-*  
23 *resent the interests of consumers.*

24          (c) *PRODUCT TRACING SYSTEM.—The Secretary, in*  
25 *consultation with the Secretary of Agriculture, shall, as ap-*

1 *appropriate, establish within the Food and Drug Administra-*  
2 *tion a product tracing system to receive information that*  
3 *improves the capacity of the Secretary to effectively and*  
4 *rapidly track and trace food that is in the United States*  
5 *or offered for import into the United States. Prior to the*  
6 *establishment of such product tracing system, the Secretary*  
7 *shall examine the results of applicable pilot projects and*  
8 *shall ensure that the activities of such system are adequately*  
9 *supported by the results of such pilot projects.*

10 *(d) ADDITIONAL RECORDKEEPING REQUIREMENTS*  
11 *FOR HIGH-RISK FOODS.—*

12 *(1) IN GENERAL.—In order to rapidly and effec-*  
13 *tively identify recipients of a food to prevent or miti-*  
14 *gate a foodborne illness outbreak and to address cred-*  
15 *ible threats of serious adverse health consequences or*  
16 *death to humans or animals as a result of such food*  
17 *being adulterated under section 402 of the Federal*  
18 *Food, Drug, and Cosmetic Act or misbranded under*  
19 *section 403(w) of such Act, not later than 2 years*  
20 *after the date of enactment of this Act, the Secretary*  
21 *shall publish a notice of proposed rulemaking to es-*  
22 *tablish recordkeeping requirements, in addition to the*  
23 *requirements under section 414 of the Federal Food,*  
24 *Drug, and Cosmetic Act (21 U.S.C. 350c) and sub-*  
25 *part J of part 1 of title 21, Code of Federal Regula-*

1        *tions (or any successor regulations), for facilities that*  
2        *manufacture, process, pack, or hold foods that the Sec-*  
3        *retary designates under paragraph (2) as high-risk*  
4        *foods. The Secretary shall set an appropriate effective*  
5        *date of such additional requirements for foods des-*  
6        *ignated as high risk that takes into account the length*  
7        *of time necessary to comply with such requirements.*  
8        *Such requirements shall—*

9                *(A) relate only to information that is rea-*  
10              *sonably available and appropriate;*

11              *(B) be science-based;*

12              *(C) not prescribe specific technologies for the*  
13              *maintenance of records;*

14              *(D) ensure that the public health benefits of*  
15              *imposing additional recordkeeping requirements*  
16              *outweigh the cost of compliance with such re-*  
17              *quirements;*

18              *(E) be scale-appropriate and practicable for*  
19              *facilities of varying sizes and capabilities with*  
20              *respect to costs and recordkeeping burdens, and*  
21              *not require the creation and maintenance of du-*  
22              *plicate records where the information is con-*  
23              *tained in other company records kept in the nor-*  
24              *mal course of business;*



1           (F) minimize the number of different rec-  
2           ording requirements for facilities that handle  
3           more than 1 type of food;

4           (G) to the extent practicable, not require a  
5           facility to change business systems to comply  
6           with such requirements;

7           (H) allow any person subject to this sub-  
8           section to maintain records required under this  
9           subsection at a central or reasonably accessible  
10          location provided that such records can be made  
11          available to the Secretary not later than 24  
12          hours after the Secretary requests such records;

13          (I) include a process by which the Secretary  
14          may issue a waiver of the requirements under  
15          this subsection if the Secretary determines that  
16          such requirements would result in an economic  
17          hardship for an individual facility or a type of  
18          facility;

19          (J) be commensurate with the known safety  
20          risks of the designated food;

21          (K) take into account international trade  
22          obligations;

23          (L) not require—

1                   (i) a full pedigree, or a record of the  
2                   complete previous distribution history of the  
3                   food from the point of origin of such food;

4                   (ii) records of recipients of a food be-  
5                   yond the immediate subsequent recipient of  
6                   such food; or

7                   (iii) product tracking to the case level  
8                   by persons subject to such requirements; and

9                   (M) include a process by which the Sec-  
10                  retary may remove a high-risk food designation  
11                  developed under paragraph (2) for a food or type  
12                  of food.

13               (2) *DESIGNATION OF HIGH-RISK FOODS.*—

14               (A) *IN GENERAL.*—Not later than 1 year  
15               after the date of enactment of this Act, and there-  
16               after as the Secretary determines necessary, the  
17               Secretary shall designate high-risk foods for  
18               which the additional recordkeeping requirements  
19               described in paragraph (1) are appropriate and  
20               necessary to protect the public health. Each such  
21               designation shall be based on—

22                   (i) the known safety risks of a par-  
23                   ticular food, including the history and se-  
24                   verity of foodborne illness outbreaks attrib-  
25                   uted to such food, taking into consideration

1           *foodborne illness data collected by the Cen-*  
2           *ters for Disease Control and Prevention;*

3           *(ii) the likelihood that a particular*  
4           *food has a high potential risk for micro-*  
5           *biological or chemical contamination or*  
6           *would support the growth of pathogenic*  
7           *microorganisms due to the nature of the*  
8           *food or the processes used to produce such*  
9           *food;*

10          *(iii) the point in the manufacturing*  
11          *process of the food where contamination is*  
12          *most likely to occur;*

13          *(iv) the likelihood of contamination*  
14          *and steps taken during the manufacturing*  
15          *process to reduce the possibility of contami-*  
16          *nation;*

17          *(v) the likelihood that consuming a*  
18          *particular food will result in a foodborne*  
19          *illness due to contamination of the food;*  
20          *and*

21          *(vi) the likely or known severity, in-*  
22          *cluding health and economic impacts, of a*  
23          *foodborne illness attributed to a particular*  
24          *food.*

1           (B) *LIST OF HIGH-RISK FOODS.*—*At the*  
2           *time the Secretary promulgates the final rules*  
3           *under paragraph (1), the Secretary shall publish*  
4           *the list of the foods designated under subpara-*  
5           *graph (A) as high-risk foods on the Internet*  
6           *website of the Food and Drug Administration.*  
7           *The Secretary may update the list to designate*  
8           *new high-risk foods and to remove foods that are*  
9           *no longer deemed to be high-risk foods, provided*  
10          *that each such update to the list is consistent*  
11          *with the requirements of this subsection and no-*  
12          *tice of such update is published in the Federal*  
13          *Register.*

14          (3) *PROTECTION OF SENSITIVE INFORMATION.*—  
15          *In promulgating regulations under this subsection,*  
16          *the Secretary shall take appropriate measures to en-*  
17          *sure that there are effective procedures to prevent the*  
18          *unauthorized disclosure of any trade secret or con-*  
19          *fidential information that is obtained by the Sec-*  
20          *retary pursuant to this section, including periodic*  
21          *risk assessment and planning to prevent unauthorized*  
22          *release and controls to—*

23                  (A) *prevent unauthorized reproduction of*  
24                  *trade secret or confidential information;*

1           (B) prevent unauthorized access to trade se-  
2           cret or confidential information; and

3           (C) maintain records with respect to access  
4           by any person to trade secret or confidential in-  
5           formation maintained by the agency.

6           (4) *PUBLIC INPUT.*—During the comment period  
7           in the notice of proposed rulemaking under para-  
8           graph (1), the Secretary shall conduct not less than  
9           3 public meetings in diverse geographical areas of the  
10          United States to provide persons in different regions  
11          an opportunity to comment.

12          (5) *RETENTION OF RECORDS.*—Except as other-  
13          wise provided in this subsection, the Secretary may  
14          require that a facility retain records under this sub-  
15          section for not more than 2 years, taking into consid-  
16          eration the risk of spoilage, loss of value, or loss of  
17          palatability of the applicable food when determining  
18          the appropriate timeframes.

19          (6) *LIMITATIONS.*—

20                 (A) *FARM-TO-SCHOOL PROGRAMS.*—In es-  
21                 tablishing requirements under this subsection,  
22                 the Secretary shall, in consultation with the Sec-  
23                 retary of Agriculture, consider the impact of re-  
24                 quirements on farm-to-school or farm-to-institu-  
25                 tion programs of the Department of Agriculture

1           *and other farm-to-school and farm-to-institution*  
2           *programs outside such agency, and shall modify*  
3           *the requirements under this subsection, as appro-*  
4           *priate, with respect to such programs so that the*  
5           *requirements do not place undue burdens on*  
6           *farm-to-school or farm-to-institution programs.*

7           *(B) IDENTITY-PRESERVED LABELS WITH*  
8           *RESPECT TO FARM SALES OF FOOD THAT IS PRO-*  
9           *DUCED AND PACKAGED ON A FARM.—The re-*  
10          *quirements under this subsection shall not apply*  
11          *to a food that is produced and packaged on a*  
12          *farm if—*

13                 *(i) the packaging of the food maintains*  
14                 *the integrity of the product and prevents*  
15                 *subsequent contamination or alteration of*  
16                 *the product; and*

17                 *(ii) the labeling of the food includes the*  
18                 *name, complete address (street address,*  
19                 *town, State, country, and zip or other post-*  
20                 *al code), and business phone number of the*  
21                 *farm, unless the Secretary waives the re-*  
22                 *quirement to include a business phone num-*  
23                 *ber of the farm, as appropriate, in order to*  
24                 *accommodate a religious belief of the indi-*  
25                 *vidual in charge of such farm.*

1           (C) *FISHING VESSELS.*—*The requirements*  
2           *under this subsection with respect to a food that*  
3           *is produced through the use of a fishing vessel (as*  
4           *defined in section 3(18) of the Magnuson-Stevens*  
5           *Fishery Conservation and Management Act (16*  
6           *U.S.C. 1802(18))) shall be limited to the require-*  
7           *ments under subparagraph (F) until such time*  
8           *as the food is sold by the owner, operator, or*  
9           *agent in charge of such fishing vessel.*

10           (D) *COMMINGLED RAW AGRICULTURAL COM-*  
11           *MODITIES.*—

12           (i) *LIMITATION ON EXTENT OF TRAC-*  
13           *ING.*—*Recordkeeping requirements under*  
14           *this subsection with regard to any commin-*  
15           *gled raw agricultural commodity shall be*  
16           *limited to the requirements under subpara-*  
17           *graph (F).*

18           (ii) *DEFINITIONS.*—*For the purposes of*  
19           *this subparagraph—*

20           (I) *the term “commingled raw ag-*  
21           *ricultural commodity” means any*  
22           *commodity that is combined or mixed*  
23           *after harvesting, but before processing;*

24           (II) *the term “commingled raw*  
25           *agricultural commodity” shall not in-*

1            *clude types of fruits and vegetables that*  
2            *are raw agricultural commodities for*  
3            *which the Secretary has determined*  
4            *that standards promulgated under sec-*  
5            *tion 419 of the Federal Food, Drug,*  
6            *and Cosmetic Act (as added by section*  
7            *6105) would minimize the risk of seri-*  
8            *ous adverse health consequences or*  
9            *death; and*

10                    *(III) the term “processing” means*  
11            *operations that alter the general state*  
12            *of the commodity, such as canning,*  
13            *cooking, freezing, dehydration, milling,*  
14            *grinding, pasteurization, or homogeni-*  
15            *zation.*

16                    *(E) EXEMPTION OF OTHER FOODS.—The*  
17            *Secretary may, by notice in the Federal Register,*  
18            *modify the requirements under this subsection*  
19            *with respect to, or exempt a food or a type of fa-*  
20            *ility from, the requirements of this subsection*  
21            *(other than the requirements under subpara-*  
22            *graph (F), if applicable) if the Secretary deter-*  
23            *mines that product tracing requirements for such*  
24            *food (such as bulk or commingled ingredients*  
25            *that are intended to be processed to destroy*



1           *pathogens) or type of facility is not necessary to*  
2           *protect the public health.*

3           (F) *RECORDKEEPING REGARDING PREVIOUS*  
4           *SOURCES AND SUBSEQUENT RECIPIENTS.—In the*  
5           *case of a person or food to which a limitation or*  
6           *exemption under subparagraph (C), (D), or (E)*  
7           *applies, if such person, or a person who manu-*  
8           *factures, processes, packs, or holds such food, is*  
9           *required to register with the Secretary under sec-*  
10           *tion 415 of the Federal Food, Drug, and Cos-*  
11           *metic Act (21 U.S.C. 350d) with respect to the*  
12           *manufacturing, processing, packing, or holding*  
13           *of the applicable food, the Secretary shall require*  
14           *such person to maintain records that identify the*  
15           *immediate previous source of such food and the*  
16           *immediate subsequent recipient of such food.*

17           (G) *GROCERY STORES.—With respect to a*  
18           *sale of a food described in subparagraph (H) to*  
19           *a grocery store, the Secretary shall not require*  
20           *such grocery store to maintain records under this*  
21           *subsection other than records documenting the*  
22           *farm that was the source of such food. The Sec-*  
23           *retary shall not require that such records be kept*  
24           *for more than 180 days.*

1           (H) *FARM SALES TO CONSUMERS.*—The  
2           Secretary shall not require a farm to maintain  
3           any distribution records under this subsection  
4           with respect to a sale of a food described in sub-  
5           paragraph (I) (including a sale of a food that is  
6           produced and packaged on such farm), if such  
7           sale is made by the farm directly to a consumer.

8           (I) *SALE OF A FOOD.*—A sale of a food de-  
9           scribed in this subparagraph is a sale of a food  
10          in which—

11                 (i) the food is produced on a farm; and

12                 (ii) the sale is made by the owner, op-  
13                 erator, or agent in charge of such farm di-  
14                 rectly to a consumer or grocery store.

15          (7) *NO IMPACT ON NON-HIGH-RISK FOODS.*—The  
16          recordkeeping requirements established under para-  
17          graph (1) shall have no effect on foods that are not  
18          designated by the Secretary under paragraph (2) as  
19          high-risk foods. Foods described in the preceding sen-  
20          tence shall be subject solely to the recordkeeping re-  
21          quirements under section 414 of the Federal Food,  
22          Drug, and Cosmetic Act (21 U.S.C. 350c) and sub-  
23          part J of part 1 of title 21, Code of Federal Regula-  
24          tions (or any successor regulations).

25          (e) *EVALUATION AND RECOMMENDATIONS.*—

1           (1) *REPORT.*—Not later than 1 year after the ef-  
2           fective date of the final rule promulgated under sub-  
3           section (d)(1), the Comptroller General of the United  
4           States shall submit to Congress a report, taking into  
5           consideration the costs of compliance and other regu-  
6           latory burdens on small businesses and Federal,  
7           State, and local food safety practices and require-  
8           ments, that evaluates the public health benefits and  
9           risks, if any, of limiting—

10                   (A) the product tracing requirements under  
11                   subsection (d) to foods identified under para-  
12                   graph (2) of such subsection, including whether  
13                   such requirements provide adequate assurance of  
14                   traceability in the event of intentional adultera-  
15                   tion, including by acts of terrorism; and

16                   (B) the participation of restaurants in the  
17                   recordkeeping requirements.

18           (2) *DETERMINATION AND RECOMMENDATIONS.*—  
19           In conducting the evaluation and report under para-  
20           graph (1), if the Comptroller General of the United  
21           States determines that the limitations described in  
22           such paragraph do not adequately protect the public  
23           health, the Comptroller General shall submit to Con-  
24           gress recommendations, if appropriate, regarding rec-

1 *ordkeeping requirements for restaurants and addi-*  
2 *tional foods, in order to protect the public health.*

3 *(f) FARMS.—*

4 *(1) REQUEST FOR INFORMATION.—Notwith-*  
5 *standing subsection (d), during an active investiga-*  
6 *tion of a foodborne illness outbreak, or if the Sec-*  
7 *retary determines it is necessary to protect the public*  
8 *health and prevent or mitigate a foodborne illness*  
9 *outbreak, the Secretary, in consultation and coordina-*  
10 *tion with State and local agencies responsible for food*  
11 *safety, as appropriate, may request that the owner,*  
12 *operator, or agent of a farm identify potential imme-*  
13 *diate recipients, other than consumers, of an article*  
14 *of the food that is the subject of such investigation if*  
15 *the Secretary reasonably believes such article of*  
16 *food—*

17 *(A) is adulterated under section 402 of the*  
18 *Federal Food, Drug, and Cosmetic Act;*

19 *(B) presents a threat of serious adverse*  
20 *health consequences or death to humans or ani-*  
21 *mals; and*

22 *(C) was adulterated as described in sub-*  
23 *paragraph (A) on a particular farm (as defined*  
24 *in section 1.227 of chapter 21, Code of Federal*  
25 *Regulations (or any successor regulation)).*

1           (2) *MANNER OF REQUEST.*—*In making a request*  
2 *under paragraph (1), the Secretary, in consultation*  
3 *and coordination with State and local agencies re-*  
4 *sponsible for food safety, as appropriate, shall issue a*  
5 *written notice to the owner, operator, or agent of the*  
6 *farm to which the article of food has been traced. The*  
7 *individual providing such notice shall present to such*  
8 *owner, operator, or agent appropriate credentials and*  
9 *shall deliver such notice at reasonable times and with-*  
10 *in reasonable limits and in a reasonable manner.*

11           (3) *DELIVERY OF INFORMATION REQUESTED.*—  
12 *The owner, operator, or agent of a farm shall deliver*  
13 *the information requested under paragraph (1) in a*  
14 *prompt and reasonable manner. Such information*  
15 *may consist of records kept in the normal course of*  
16 *business, and may be in electronic or nonelectronic*  
17 *format.*

18           (4) *LIMITATION.*—*A request made under para-*  
19 *graph (1) shall not include a request for information*  
20 *relating to the finances, pricing of commodities pro-*  
21 *duced, personnel, research, sales (other than informa-*  
22 *tion relating to shipping), or other disclosures that*  
23 *may reveal trade secrets or confidential information*  
24 *from the farm to which the article of food has been*  
25 *traced, other than information necessary to identify*

1        *potential immediate recipients of such food. Section*  
2        *301(j) of the Federal Food, Drug, and Cosmetic Act*  
3        *and the Freedom of Information Act shall apply with*  
4        *respect to any confidential commercial information*  
5        *that is disclosed to the Food and Drug Administra-*  
6        *tion in the course of responding to a request under*  
7        *paragraph (1).*

8                *(5) RECORDS.—Except with respect to identi-*  
9        *fying potential immediate recipients in response to a*  
10       *request under this subsection, nothing in this sub-*  
11       *section shall require the establishment or maintenance*  
12       *by farms of new records.*

13        *(g) NO LIMITATION ON COMMINGLING OF FOOD.—*  
14       *Nothing in this section shall be construed to authorize the*  
15       *Secretary to impose any limitation on the commingling of*  
16       *food.*

17        *(h) SMALL ENTITY COMPLIANCE GUIDE.—Not later*  
18       *than 180 days after promulgation of a final rule under sub-*  
19       *section (d), the Secretary shall issue a small entity compli-*  
20       *ance guide setting forth in plain language the requirements*  
21       *of the regulations under such subsection in order to assist*  
22       *small entities, including farms and small businesses, in*  
23       *complying with the recordkeeping requirements under such*  
24       *subsection.*

1       (i) *FLEXIBILITY FOR SMALL BUSINESSES.*—Notwith-  
2 standing any other provision of law, the regulations pro-  
3 mulgated under subsection (d) shall apply—

4           (1) to small businesses (as defined by the Sec-  
5 retary in section 6103, not later than 90 days after  
6 the date of enactment of this Act) beginning on the  
7 date that is 1 year after the effective date of the final  
8 regulations promulgated under subsection (d); and

9           (2) to very small businesses (as defined by the  
10 Secretary in section 6103, not later than 90 days  
11 after the date of enactment of this Act) beginning on  
12 the date that is 2 years after the effective date of the  
13 final regulations promulgated under subsection (d).

14       (j) *ENFORCEMENT.*—

15           (1) *PROHIBITED ACTS.*—Section 301(e) (21  
16 U.S.C. 331(e)) is amended by inserting “; or the vio-  
17 lation of any recordkeeping requirement under section  
18 6204 of the FDA Food Safety Modernization Act (ex-  
19 cept when such violation is committed by a farm)”  
20 before the period at the end.

21           (2) *IMPORTS.*—Section 801(a) (21 U.S.C.  
22 381(a)) is amended by inserting “or (4) the record-  
23 keeping requirements under section 6204 of the FDA  
24 Food Safety Modernization Act (other than the re-  
25 quirements under subsection (f) of such section) have

1        *not been complied with regarding such article,” in the*  
2        *third sentence before “then such article shall be re-*  
3        *fused admission”.*

4        **SEC. 6205. SURVEILLANCE.**

5        (a) *DEFINITION OF FOODBORNE ILLNESS OUT-*  
6        *BREAK.—In this Act, the term “foodborne illness outbreak”*  
7        *means the occurrence of 2 or more cases of a similar illness*  
8        *resulting from the ingestion of a certain food.*

9        (b) *FOODBORNE ILLNESS SURVEILLANCE SYSTEMS.—*

10        (1) *IN GENERAL.—The Secretary, acting through*  
11        *the Director of the Centers for Disease Control and*  
12        *Prevention, shall enhance foodborne illness surveil-*  
13        *lance systems to improve the collection, analysis, re-*  
14        *porting, and usefulness of data on foodborne illnesses*  
15        *by—*

16                (A) *coordinating Federal, State, and local*  
17                *foodborne illness surveillance systems, including*  
18                *complaint systems, and increasing participation*  
19                *in national networks of public health and food*  
20                *regulatory agencies and laboratories;*

21                (B) *facilitating sharing of surveillance in-*  
22                *formation on a more timely basis among govern-*  
23                *mental agencies, including the Food and Drug*  
24                *Administration, the Department of Agriculture,*



1           *the Department of Homeland Security, and*  
2           *State and local agencies, and with the public;*

3           *(C) developing improved epidemiological*  
4           *tools for obtaining quality exposure data and*  
5           *microbiological methods for classifying cases;*

6           *(D) augmenting such systems to improve at-*  
7           *tribution of a foodborne illness outbreak to a spe-*  
8           *cific food;*

9           *(E) expanding capacity of such systems, in-*  
10          *cluding working toward automatic electronic*  
11          *searches, for implementation of identification*  
12          *practices, including fingerprinting strategies, for*  
13          *foodborne infectious agents, in order to identify*  
14          *new or rarely documented causes of foodborne ill-*  
15          *ness and submit standardized information to a*  
16          *centralized database;*

17          *(F) allowing timely public access to aggre-*  
18          *gated, de-identified surveillance data;*

19          *(G) at least annually, publishing current*  
20          *reports on findings from such systems;*

21          *(H) establishing a flexible mechanism for*  
22          *rapidly initiating scientific research by aca-*  
23          *demic institutions;*

24          *(I) integrating foodborne illness surveillance*  
25          *systems and data with other biosurveillance and*

1           *public health situational awareness capabilities*  
2           *at the Federal, State, and local levels, including*  
3           *by sharing foodborne illness surveillance data*  
4           *with the National Biosurveillance Integration*  
5           *Center; and*

6                     *(J) other activities as determined appro-*  
7                     *priate by the Secretary.*

8           (2) *WORKING GROUP.*—*The Secretary shall sup-*  
9           *port and maintain a diverse working group of experts*  
10           *and stakeholders from Federal, State, and local food*  
11           *safety and health agencies, the food and food testing*  
12           *industries, consumer organizations, and academia.*  
13           *Such working group shall provide the Secretary,*  
14           *through at least annual meetings of the working*  
15           *group and an annual public report, advice and rec-*  
16           *ommendations on an ongoing and regular basis re-*  
17           *garding the improvement of foodborne illness surveil-*  
18           *lance and implementation of this section, including*  
19           *advice and recommendations on—*

20                     *(A) the priority needs of regulatory agen-*  
21                     *cies, the food industry, and consumers for infor-*  
22                     *mation and analysis on foodborne illness and its*  
23                     *causes;*

24                     *(B) opportunities to improve the effective-*  
25                     *ness of initiatives at the Federal, State, and*

1           *local levels, including coordination and integra-*  
2           *tion of activities among Federal agencies, and*  
3           *among the Federal, State, and local levels of gov-*  
4           *ernment;*

5           *(C) improvement in the timeliness and*  
6           *depth of access by regulatory and health agen-*  
7           *cies, the food industry, academic researchers, and*  
8           *consumers to foodborne illness aggregated, de-*  
9           *identified surveillance data collected by govern-*  
10          *ment agencies at all levels, including data com-*  
11          *plied by the Centers for Disease Control and Pre-*  
12          *vention;*

13          *(D) key barriers at Federal, State, and local*  
14          *levels to improving foodborne illness surveillance*  
15          *and the utility of such surveillance for pre-*  
16          *venting foodborne illness;*

17          *(E) the capabilities needed for establishing*  
18          *automatic electronic searches of surveillance*  
19          *data; and*

20          *(F) specific actions to reduce barriers to im-*  
21          *provement, implement the working group's rec-*  
22          *ommendations, and achieve the purposes of this*  
23          *section, with measurable objectives and timelines,*  
24          *and identification of resource and staffing needs.*

1           (3) *AUTHORIZATION OF APPROPRIATIONS.—To*  
2           *carry out the activities described in paragraph (1),*  
3           *there is authorized to be appropriated \$24,000,000 for*  
4           *each fiscal years 2011 through 2015.*

5           (c) *IMPROVING FOOD SAFETY AND DEFENSE CAPACITY*  
6 *AT THE STATE AND LOCAL LEVEL.—*

7           (1) *IN GENERAL.—The Secretary shall develop*  
8           *and implement strategies to leverage and enhance the*  
9           *food safety and defense capacities of State and local*  
10          *agencies in order to achieve the following goals:*

11                   (A) *Improve foodborne illness outbreak re-*  
12                   *sponse and containment.*

13                   (B) *Accelerate foodborne illness surveillance*  
14                   *and outbreak investigation, including rapid*  
15                   *shipment of clinical isolates from clinical labora-*  
16                   *tories to appropriate State laboratories, and con-*  
17                   *ducting more standardized illness outbreak inter-*  
18                   *views.*

19                   (C) *Strengthen the capacity of State and*  
20                   *local agencies to carry out inspections and en-*  
21                   *force safety standards.*

22                   (D) *Improve the effectiveness of Federal,*  
23                   *State, and local partnerships to coordinate food*  
24                   *safety and defense resources and reduce the inci-*  
25                   *dence of foodborne illness.*

1           (E) Share information on a timely basis  
2 among public health and food regulatory agen-  
3 cies, with the food industry, with health care  
4 providers, and with the public.

5           (F) Strengthen the capacity of State and  
6 local agencies to achieve the goals described in  
7 section 6108.

8           (2) REVIEW.—In developing of the strategies re-  
9 quired by paragraph (1), the Secretary shall, not  
10 later than 1 year after the date of enactment of the  
11 FDA Food Safety Modernization Act, complete a re-  
12 view of State and local capacities, and needs for en-  
13 hancement, which may include a survey with respect  
14 to—

15           (A) staffing levels and expertise available to  
16 perform food safety and defense functions;

17           (B) laboratory capacity to support surveil-  
18 lance, outbreak response, inspection, and enforce-  
19 ment activities;

20           (C) information systems to support data  
21 management and sharing of food safety and de-  
22 fense information among State and local agen-  
23 cies and with counterparts at the Federal level;  
24 and

1           (D) other State and local activities and  
2           needs as determined appropriate by the Sec-  
3           retary.

4           (d) *FOOD SAFETY CAPACITY BUILDING GRANTS*.—Sec-  
5           tion 317R(b) of the Public Health Service Act (42 U.S.C.  
6           247b–20(b)) is amended—

7           (1) by striking “2002” and inserting “2010”;  
8           and

9           (2) by striking “2003 through 2006” and insert-  
10          ing “2011 through 2015”.

11       **SEC. 6206. MANDATORY RECALL AUTHORITY.**

12          (a) *IN GENERAL*.—Chapter IV (21 U.S.C. 341 et seq.),  
13          as amended by section 6202, is amended by adding at the  
14          end the following:

15       **“SEC. 423. MANDATORY RECALL AUTHORITY.**

16          “(a) *VOLUNTARY PROCEDURES*.—If the Secretary de-  
17          termines, based on information gathered through the report-  
18          able food registry under section 417 or through any other  
19          means, that there is a reasonable probability that an article  
20          of food (other than infant formula) is adulterated under sec-  
21          tion 402 or misbranded under section 403(w) and the use  
22          of or exposure to such article will cause serious adverse  
23          health consequences or death to humans or animals, the Sec-  
24          retary shall provide the responsible party (as defined in sec-

1 *tion 417) with an opportunity to cease distribution and re-*  
2 *call such article.*

3       “(b) *PREHEARING ORDER TO CEASE DISTRIBUTION*  
4 *AND GIVE NOTICE.*—

5               “(1) *IN GENERAL.*—*If the responsible party re-*  
6 *fuses to or does not voluntarily cease distribution or*  
7 *recall such article within the time and in the manner*  
8 *prescribed by the Secretary (if so prescribed), the Sec-*  
9 *retary may, by order require, as the Secretary deems*  
10 *necessary, such person to—*

11                       “(A) *immediately cease distribution of such*  
12 *article; and*

13                       “(B) *as applicable, immediately notify all*  
14 *persons—*

15                               “(i) *manufacturing, processing, pack-*  
16 *ing, transporting, distributing, receiving,*  
17 *holding, or importing and selling such arti-*  
18 *cle; and*

19                               “(ii) *to which such article has been*  
20 *distributed, transported, or sold, to imme-*  
21 *diately cease distribution of such article.*

22       “(2) *REQUIRED ADDITIONAL INFORMATION.*—

23                       “(A) *IN GENERAL.*—*If an article of food*  
24 *covered by a recall order issued under paragraph*  
25 *(1)(B) has been distributed to a warehouse-based*

1           *third-party logistics provider without providing*  
2           *such provider sufficient information to know or*  
3           *reasonably determine the precise identity of the*  
4           *article of food covered by a recall order that is*  
5           *in its possession, the notice provided by the re-*  
6           *sponsible party subject to the order issued under*  
7           *paragraph (1)(B) shall include such information*  
8           *as is necessary for the warehouse-based third-*  
9           *party logistics provider to identify the food.*

10           “(B) *RULES OF CONSTRUCTION.*—*Nothing*  
11           *in this paragraph shall be construed—*

12                   “(i) *to exempt a warehouse-based*  
13                   *third-party logistics provider from the re-*  
14                   *quirements of this Act, including the re-*  
15                   *quirements in this section and section 414;*  
16                   *or*

17                   “(ii) *to exempt a warehouse-based*  
18                   *third party logistics provider from being the*  
19                   *subject of a mandatory recall order.*

20           “(3) *DETERMINATION TO LIMIT AREAS AF-*  
21           *FFECTED.*—*If the Secretary requires a responsible*  
22           *party to cease distribution under paragraph (1)(A) of*  
23           *an article of food identified in subsection (a), the Sec-*  
24           *retary may limit the size of the geographic area and*



1        *the markets affected by such cessation if such limita-*  
2        *tion would not compromise the public health.*

3        “(c) *HEARING ON ORDER.—The Secretary shall pro-*  
4        *vide the responsible party subject to an order under sub-*  
5        *section (b) with an opportunity for an informal hearing,*  
6        *to be held as soon as possible, but not later than 2 days*  
7        *after the issuance of the order, on the actions required by*  
8        *the order and on why the article that is the subject of the*  
9        *order should not be recalled.*

10       “(d) *POST-HEARING RECALL ORDER AND MODIFICA-*  
11       *TION OF ORDER.—*

12                “(1) *AMENDMENT OF ORDER.—If, after pro-*  
13        *viding opportunity for an informal hearing under*  
14        *subsection (c), the Secretary determines that removal*  
15        *of the article from commerce is necessary, the Sec-*  
16        *retary shall, as appropriate—*

17                        “(A) *amend the order to require recall of*  
18        *such article or other appropriate action;*

19                        “(B) *specify a timetable in which the recall*  
20        *shall occur;*

21                        “(C) *require periodic reports to the Sec-*  
22        *retary describing the progress of the recall; and*

23                        “(D) *provide notice to consumers to whom*  
24        *such article was, or may have been, distributed.*

1           “(2) *VACATING OF ORDER.*—If, after such hear-  
2           ing, the Secretary determines that adequate grounds  
3           do not exist to continue the actions required by the  
4           order, or that such actions should be modified, the  
5           Secretary shall vacate the order or modify the order.

6           “(e) *RULE REGARDING ALCOHOLIC BEVERAGES.*—The  
7           Secretary shall not initiate a mandatory recall or take any  
8           other action under this section with respect to any alcohol  
9           beverage until the Secretary has provided the Alcohol and  
10          Tobacco Tax and Trade Bureau with a reasonable oppor-  
11          tunity to cease distribution and recall such article under  
12          the Alcohol and Tobacco Tax and Trade Bureau authority.

13          “(f) *COOPERATION AND CONSULTATION.*—The Sec-  
14          retary shall work with State and local public health officials  
15          in carrying out this section, as appropriate.

16          “(g) *PUBLIC NOTIFICATION.*—In conducting a recall  
17          under this section, the Secretary shall—

18                 “(1) ensure that a press release is published re-  
19                 garding the recall, as well as alerts and public no-  
20                 tices, as appropriate, in order to provide notifica-  
21                 tion—

22                         “(A) of the recall to consumers and retailers  
23                         to whom such article was, or may have been, dis-  
24                         tributed; and

25                         “(B) that includes, at a minimum—

1                   “(i) the name of the article of food sub-  
2                   ject to the recall;

3                   “(ii) a description of the risk associ-  
4                   ated with such article; and

5                   “(iii) to the extent practicable, infor-  
6                   mation for consumers about similar articles  
7                   of food that are not affected by the recall;

8                   “(2) consult the policies of the Department of Ag-  
9                   riculture regarding providing to the public a list of  
10                  retail consignees receiving products involved in a  
11                  Class I recall and shall consider providing such a list  
12                  to the public, as determined appropriate by the Sec-  
13                  retary; and

14                  “(3) if available, publish on the Internet Web  
15                  site of the Food and Drug Administration an image  
16                  of the article that is the subject of the press release de-  
17                  scribed in paragraph (1).

18                  “(h) *NO DELEGATION.*—The authority conferred by  
19                  this section to order a recall or vacate a recall order shall  
20                  not be delegated to any officer or employee other than the  
21                  Commissioner.

22                  “(i) *EFFECT.*—Nothing in this section shall affect the  
23                  authority of the Secretary to request or participate in a  
24                  voluntary recall, or to issue an order to cease distribution

1 *or to recall under any other provision of this Act or under*  
2 *the Public Health Service Act.*

3 “(j) *COORDINATED COMMUNICATION.*—

4 “(1) *IN GENERAL.*—*To assist in carrying out the*  
5 *requirements of this subsection, the Secretary shall es-*  
6 *tablish an incident command operation or a similar*  
7 *operation within the Department of Health and*  
8 *Human Services that will operate not later than 24*  
9 *hours after the initiation of a mandatory recall or the*  
10 *recall of an article of food for which the use of, or ex-*  
11 *posure to, such article will cause serious adverse*  
12 *health consequences or death to humans or animals.*

13 “(2) *REQUIREMENTS.*—*To reduce the potential*  
14 *for miscommunication during recalls or regarding in-*  
15 *vestigations of a foodborne illness outbreak associated*  
16 *with a food that is subject to a recall, each incident*  
17 *command operation or similar operation under para-*  
18 *graph (1) shall use regular staff and resources of the*  
19 *Department of Health and Human Services to—*

20 “(A) *ensure timely and coordinated commu-*  
21 *nication within the Department, including en-*  
22 *hanced communication and coordination between*  
23 *different agencies and organizations within the*  
24 *Department;*

1           “(B) ensure timely and coordinated commu-  
2           nication from the Department, including public  
3           statements, throughout the duration of the inves-  
4           tigation and related foodborne illness outbreak;

5           “(C) identify a single point of contact with-  
6           in the Department for public inquiries regarding  
7           any actions by the Secretary related to a recall;

8           “(D) coordinate with Federal, State, local,  
9           and tribal authorities, as appropriate, that have  
10          responsibilities related to the recall of a food or  
11          a foodborne illness outbreak associated with a  
12          food that is subject to the recall, including notifi-  
13          cation of the Secretary of Agriculture and the  
14          Secretary of Education in the event such recalled  
15          food is a commodity intended for use in a child  
16          nutrition program (as identified in section 25(b)  
17          of the Richard B. Russell National School Lunch  
18          Act (42 U.S.C. 1769f(b)); and

19          “(E) conclude operations at such time as  
20          the Secretary determines appropriate.

21          “(3) MULTIPLE RECALLS.—The Secretary may  
22          establish multiple or concurrent incident command  
23          operations or similar operations in the event of mul-  
24          tiple recalls or foodborne illness outbreaks necessi-

1        *tating such action by the Department of Health and*  
2        *Human Services.”.*

3        (b) *SEARCH ENGINE.*—*Not later than 90 days after*  
4        *the date of enactment of this Act, the Secretary shall modify*  
5        *the Internet Web site of the Food and Drug Administration*  
6        *to include a search engine that—*

7                (1) *is consumer-friendly, as determined by the*  
8        *Secretary; and*

9                (2) *provides a means by which an individual*  
10        *may locate relevant information regarding each arti-*  
11        *cle of food subject to a recall under section 423 of the*  
12        *Federal Food, Drug, and Cosmetic Act and the status*  
13        *of such recall (such as whether a recall is ongoing or*  
14        *has been completed).*

15        (c) *CIVIL PENALTY.*—*Section 303(f)(2)(A) (21 U.S.C.*  
16        *333(f)(2)(A)) is amended by inserting “or any person who*  
17        *does not comply with a recall order under section 423” after*  
18        *“section 402(a)(2)(B)”.*

19        (d) *PROHIBITED ACTS.*—*Section 301 (21 U.S.C. 331*  
20        *et seq.), as amended by section 6106, is amended by adding*  
21        *at the end the following:*

22                “(xx) *The refusal or failure to follow an order under*  
23        *section 423.”.*

24        (e) *GAO REVIEW.*—

1           (1) *IN GENERAL.*—Not later than 90 days after  
2           the date of enactment of this Act, the Comptroller  
3           General of the United States shall submit to Congress  
4           a report that—

5                   (A) identifies State and local agencies with  
6                   the authority to require the mandatory recall of  
7                   food, and evaluates use of such authority with re-  
8                   gard to frequency, effectiveness, and appropriate-  
9                   ness, including consideration of any new or ex-  
10                  isting mechanisms available to compensate per-  
11                  sons for general and specific recall-related costs  
12                  when a recall is subsequently determined by the  
13                  relevant authority to have been an error;

14                  (B) identifies Federal agencies, other than  
15                  the Department of Health and Human Services,  
16                  with mandatory recall authority and examines  
17                  use of that authority with regard to frequency,  
18                  effectiveness, and appropriateness, including any  
19                  new or existing mechanisms available to com-  
20                  pensate persons for general and specific recall-re-  
21                  lated costs when a recall is subsequently deter-  
22                  mined by the relevant agency to have been an  
23                  error;

1           (C) considers models for farmer restitution  
2           implemented in other nations in cases of erro-  
3           neous recalls; and

4           (D) makes recommendations to the Sec-  
5           retary regarding use of the authority under sec-  
6           tion 423 of the Federal Food, Drug, and Cos-  
7           metic Act (as added by this section) to protect  
8           the public health while seeking to minimize un-  
9           necessary economic costs.

10          (2) *EFFECT OF REVIEW.*—If the Comptroller  
11          General of the United States finds, after the review  
12          conducted under paragraph (1), that the mechanisms  
13          described in such paragraph do not exist or are inad-  
14          equate, then, not later than 90 days after the conclu-  
15          sion of such review, the Secretary of Agriculture shall  
16          conduct a study of the feasibility of implementing a  
17          farmer indemnification program to provide restitu-  
18          tion to agricultural producers for losses sustained as  
19          a result of a mandatory recall of an agricultural com-  
20          modity by a Federal or State regulatory agency that  
21          is subsequently determined to be in error. The Sec-  
22          retary of Agriculture shall submit to the Committee  
23          on Agriculture of the House of Representatives and  
24          the Committee on Agriculture, Nutrition, and For-



1 *estry of the Senate a report that describes the results*  
2 *of the study, including any recommendations.*

3 *(f) ANNUAL REPORT TO CONGRESS.—*

4 *(1) IN GENERAL.—Not later than 2 years after*  
5 *the date of enactment of this Act and annually there-*  
6 *after, the Secretary of Health and Human Services*  
7 *(referred to in this subsection as the “Secretary”)*  
8 *shall submit a report to the Committee on Health,*  
9 *Education, Labor, and Pensions of the Senate and the*  
10 *Committee on Energy and Commerce of the House of*  
11 *Representatives on the use of recall authority under*  
12 *section 423 of the Federal Food, Drug, and Cosmetic*  
13 *Act (as added by subsection (a)) and any public*  
14 *health advisories issued by the Secretary that advise*  
15 *against the consumption of an article of food on the*  
16 *ground that the article of food is adulterated and*  
17 *poses an imminent danger to health.*

18 *(2) CONTENT.—The report under paragraph (1)*  
19 *shall include, with respect to the report year—*

20 *(A) the identity of each article of food that*  
21 *was the subject of a public health advisory de-*  
22 *scribed in paragraph (1), an opportunity to*  
23 *cease distribution and recall under subsection (a)*  
24 *of section 423 of the Federal Food, Drug, and*

1           *Cosmetic Act, or a mandatory recall order under*  
2           *subsection (b) of such section;*

3                     *(B) the number of responsible parties, as de-*  
4                     *finied in section 417 of the Federal Food, Drug,*  
5                     *and Cosmetic Act, formally given the oppor-*  
6                     *tunity to cease distribution of an article of food*  
7                     *and recall such article, as described in section*  
8                     *423(a) of such Act;*

9                     *(C) the number of responsible parties de-*  
10                    *scribed in subparagraph (B) who did not cease*  
11                    *distribution of or recall an article of food after*  
12                    *given the opportunity to cease distribution or re-*  
13                    *call under section 423(a) of the Federal Food,*  
14                    *Drug, and Cosmetic Act;*

15                    *(D) the number of recall orders issued under*  
16                    *section 423(b) of the Federal Food, Drug, and*  
17                    *Cosmetic Act; and*

18                    *(E) a description of any instances in which*  
19                    *there was no testing that confirmed adulteration*  
20                    *of an article of food that was the subject of a re-*  
21                    *call under section 423(b) of the Federal Food,*  
22                    *Drug, and Cosmetic Act or a public health advi-*  
23                    *sory described in paragraph (1).*

1 **SEC. 6207. ADMINISTRATIVE DETENTION OF FOOD.**

2 (a) *IN GENERAL.*—Section 304(h)(1)(A) (21 U.S.C.  
3 334(h)(1)(A)) is amended by—

4 (1) striking “credible evidence or information in-  
5 dicating” and inserting “reason to believe”; and

6 (2) striking “presents a threat of serious adverse  
7 health consequences or death to humans or animals”  
8 and inserting “is adulterated or misbranded”.

9 (b) *REGULATIONS.*—Not later than 120 days after the  
10 date of enactment of this Act, the Secretary shall issue an  
11 interim final rule amending subpart K of part 1 of title  
12 21, Code of Federal Regulations, to implement the amend-  
13 ment made by this section.

14 (c) *EFFECTIVE DATE.*—The amendment made by this  
15 section shall take effect 180 days after the date of enactment  
16 of this Act.

17 **SEC. 6208. DECONTAMINATION AND DISPOSAL STANDARDS**  
18 **AND PLANS.**

19 (a) *IN GENERAL.*—The Administrator of the Environ-  
20 mental Protection Agency (referred to in this section as the  
21 “Administrator”), in coordination with the Secretary of  
22 Health and Human Services, Secretary of Homeland Secu-  
23 rity, and Secretary of Agriculture, shall provide support  
24 for, and technical assistance to, State, local, and tribal gov-  
25 ernments in preparing for, assessing, decontaminating, and  
26 recovering from an agriculture or food emergency.

1           **(b) DEVELOPMENT OF STANDARDS.**—*In carrying out*  
2 *subsection (a), the Administrator, in coordination with the*  
3 *Secretary of Health and Human Services, Secretary of*  
4 *Homeland Security, Secretary of Agriculture, and State,*  
5 *local, and tribal governments, shall develop and disseminate*  
6 *specific standards and protocols to undertake clean-up,*  
7 *clearance, and recovery activities following the decon-*  
8 *tamination and disposal of specific threat agents and for-*  
9 *eign animal diseases.*

10           **(c) DEVELOPMENT OF MODEL PLANS.**—*In carrying*  
11 *out subsection (a), the Administrator, the Secretary of*  
12 *Health and Human Services, and the Secretary of Agri-*  
13 *culture shall jointly develop and disseminate model plans*  
14 *for—*

15                   (1) *the decontamination of individuals, equip-*  
16 *ment, and facilities following an intentional contami-*  
17 *nation of agriculture or food; and*

18                   (2) *the disposal of large quantities of animals,*  
19 *plants, or food products that have been infected or*  
20 *contaminated by specific threat agents and foreign*  
21 *animal diseases.*

22           **(d) EXERCISES.**—*In carrying out subsection (a), the*  
23 *Administrator, in coordination with the entities described*  
24 *under subsection (b), shall conduct exercises at least annu-*  
25 *ally to evaluate and identify weaknesses in the decon-*

1 *tamination and disposal model plans described in sub-*  
2 *section (c). Such exercises shall be carried out, to the max-*  
3 *imum extent practicable, as part of the national exercise*  
4 *program under section 648(b)(1) of the Post-Katrina Emer-*  
5 *gency Management Reform Act of 2006 (6 U.S.C.*  
6 *748(b)(1)).*

7 *(e) MODIFICATIONS.—Based on the exercises described*  
8 *in subsection (d), the Administrator, in coordination with*  
9 *the entities described in subsection (b), shall review and*  
10 *modify as necessary the plans described in subsection (c)*  
11 *not less frequently than biennially.*

12 *(f) PRIORITIZATION.—The Administrator, in coordi-*  
13 *nation with the entities described in subsection (b), shall*  
14 *develop standards and plans under subsections (b) and (c)*  
15 *in an identified order of priority that takes into account—*

16 *(1) highest risk biological, chemical, and radio-*  
17 *logical threat agents;*

18 *(2) agents that could cause the greatest economic*  
19 *devastation to the agriculture and food system; and*

20 *(3) agents that are most difficult to clean or re-*  
21 *mediate.*

1 **SEC. 6209. IMPROVING THE TRAINING OF STATE, LOCAL,**  
2 **TERRITORIAL, AND TRIBAL FOOD SAFETY OF-**  
3 **FICIALS.**

4 *(a) IMPROVING TRAINING.—Chapter X (21 U.S.C. 391*  
5 *et seq.) is amended by adding at the end the following:*

6 **“SEC. 1012. IMPROVING THE TRAINING OF STATE, LOCAL,**  
7 **TERRITORIAL, AND TRIBAL FOOD SAFETY OF-**  
8 **FICIALS.**

9 *“(a) TRAINING.—The Secretary shall set standards*  
10 *and administer training and education programs for the*  
11 *employees of State, local, territorial, and tribal food safety*  
12 *officials relating to the regulatory responsibilities and poli-*  
13 *cies established by this Act, including programs for—*

14 *“(1) scientific training;*

15 *“(2) training to improve the skill of officers and*  
16 *employees authorized to conduct inspections under*  
17 *sections 702 and 704;*

18 *“(3) training to achieve advanced product or*  
19 *process specialization in such inspections;*

20 *“(4) training that addresses best practices;*

21 *“(5) training in administrative process and pro-*  
22 *cedure and integrity issues;*

23 *“(6) training in appropriate sampling and lab-*  
24 *oratory analysis methodology; and*

1           “(7) *training in building enforcement actions*  
2           *following inspections, examinations, testing, and in-*  
3           *vestigations.*

4           “(b) *PARTNERSHIPS WITH STATE AND LOCAL OFFI-*  
5           *CIALS.—*

6           “(1) *IN GENERAL.—The Secretary, pursuant to a*  
7           *contract or memorandum of understanding between*  
8           *the Secretary and the head of a State, local, terri-*  
9           *torial, or tribal department or agency, is authorized*  
10           *and encouraged to conduct examinations, testing, and*  
11           *investigations for the purposes of determining compli-*  
12           *ance with the food safety provisions of this Act*  
13           *through the officers and employees of such State, local,*  
14           *territorial, or tribal department or agency.*

15           “(2) *CONTENT.—A contract or memorandum de-*  
16           *scribed under paragraph (1) shall include provisions*  
17           *to ensure adequate training of such officers and em-*  
18           *ployees to conduct such examinations, testing, and in-*  
19           *vestigations. The contract or memorandum shall con-*  
20           *tain provisions regarding reimbursement. Such provi-*  
21           *sions may, at the sole discretion of the head of the*  
22           *other department or agency, require reimbursement,*  
23           *in whole or in part, from the Secretary for the exami-*  
24           *nations, testing, or investigations performed pursuant*

1       to this section by the officers or employees of the  
2       State, territorial, or tribal department or agency.

3               “(3) *EFFECT.*—Nothing in this subsection shall  
4       be construed to limit the authority of the Secretary  
5       under section 702.

6               “(c) *EXTENSION SERVICE.*—The Secretary shall ensure  
7       coordination with the extension activities of the National  
8       Institute of Food and Agriculture of the Department of Ag-  
9       riculture in advising producers and small processors  
10       transitioning into new practices required as a result of the  
11       enactment of the *FDA Food Safety Modernization Act* and  
12       assisting regulated industry with compliance with such Act.

13               “(d) *NATIONAL FOOD SAFETY TRAINING, EDUCATION,*  
14       *EXTENSION, OUTREACH, AND TECHNICAL ASSISTANCE*  
15       *PROGRAM.*—

16               “(1) *IN GENERAL.*—In order to improve food  
17       safety and reduce the incidence of foodborne illness,  
18       the Secretary shall, not later than 180 days after the  
19       date of enactment of the *FDA Food Safety Moderniza-*  
20       *tion Act*, enter into one or more memoranda of under-  
21       standing, or enter into other cooperative agreements,  
22       with the Secretary of Agriculture to establish a com-  
23       petitive grant program within the National Institute  
24       for Food and Agriculture to provide food safety train-



1        *ing, education, extension, outreach, and technical as-*  
2        *sistance to—*

3                *“(A) owners and operators of farms;*

4                *“(B) small food processors; and*

5                *“(C) small fruit and vegetable merchant*  
6        *wholesalers.*

7                *“(2) IMPLEMENTATION.—The competitive grant*  
8        *program established under paragraph (1) shall be*  
9        *carried out in accordance with section 405 of the Ag-*  
10       *ricultural Research, Extension, and Education Re-*  
11       *form Act of 1998.*

12               *“(e) AUTHORIZATION OF APPROPRIATIONS.—There are*  
13       *authorized to be appropriated such sums as may be nec-*  
14       *essary to carry out this section for fiscal years 2011 through*  
15       *2015.”.*

16               *(b) NATIONAL FOOD SAFETY TRAINING, EDUCATION,*  
17       *EXTENSION, OUTREACH, AND TECHNICAL ASSISTANCE*  
18       *PROGRAM.—Title IV of the Agricultural Research, Exten-*  
19       *sion, and Education Reform Act of 1998 is amended by*  
20       *inserting after section 404 (7 U.S.C. 7624) the following:*

21       **“SEC. 405. NATIONAL FOOD SAFETY TRAINING, EDUCATION,**  
22                        **EXTENSION, OUTREACH, AND TECHNICAL AS-**  
23                        **SISTANCE PROGRAM.**

24               *“(a) IN GENERAL.—The Secretary shall award grants*  
25       *under this section to carry out the competitive grant pro-*

1 *gram established under section 1012(d) of the Federal Food,*  
2 *Drug, and Cosmetic Act, pursuant to any memoranda of*  
3 *understanding entered into under such section.*

4       “(b) *INTEGRATED APPROACH.*—*The grant program*  
5 *described under subsection (a) shall be carried out under*  
6 *this section in a manner that facilitates the integration of*  
7 *food safety standards and guidance with the variety of agri-*  
8 *cultural production systems, encompassing conventional,*  
9 *sustainable, organic, conservation, and environmental prac-*  
10 *tices.*

11       “(c) *PRIORITY.*—*In awarding grants under this sec-*  
12 *tion, the Secretary shall give priority to projects that target*  
13 *small- and medium-sized farms, beginning farmers, socially*  
14 *disadvantaged farmers, small processors, or small fresh*  
15 *fruit and vegetable merchant wholesalers.*

16       “(d) *PROGRAM COORDINATION.*—

17               “(1) *IN GENERAL.*—*The Secretary shall coordi-*  
18 *nate implementation of the grant program under this*  
19 *section with the National Integrated Food Safety Ini-*  
20 *tiative.*

21               “(2) *INTERACTION.*—*The Secretary shall—*

22                       “(A) *in carrying out the grant program*  
23 *under this section, take into consideration ap-*  
24 *plied research, education, and extension results*

1           *obtained from the National Integrated Food*  
2           *Safety Initiative; and*

3           “(B) *in determining the applied research*  
4           *agenda for the National Integrated Food Safety*  
5           *Initiative, take into consideration the needs ar-*  
6           *ticulated by participants in projects funded by*  
7           *the program under this section.*

8           “(e) *GRANTS.—*

9           “(1) *IN GENERAL.—In carrying out this section,*  
10          *the Secretary shall make competitive grants to sup-*  
11          *port training, education, extension, outreach, and*  
12          *technical assistance projects that will help improve*  
13          *public health by increasing the understanding and*  
14          *adoption of established food safety standards, guid-*  
15          *ance, and protocols.*

16          “(2) *ENCOURAGED FEATURES.—The Secretary*  
17          *shall encourage projects carried out using grant funds*  
18          *under this section to include co-management of food*  
19          *safety, conservation systems, and ecological health.*

20          “(3) *MAXIMUM TERM AND SIZE OF GRANT.—*

21                 “(A) *IN GENERAL.—A grant under this sec-*  
22                 *tion shall have a term that is not more than 3*  
23                 *years.*

24                 “(B) *LIMITATION ON GRANT FUNDING.—The*  
25                 *Secretary may not provide grant funding to an*

1           *entity under this section after such entity has re-*  
2           *ceived 3 years of grant funding under this sec-*  
3           *tion.*

4           “(f) *GRANT ELIGIBILITY.*—

5           “(1) *IN GENERAL.*—*To be eligible for a grant*  
6           *under this section, an entity shall be—*

7                   “(A) *a State cooperative extension service;*

8                   “(B) *a Federal, State, local, or tribal agen-*  
9                   *cy, a nonprofit community-based or nongovern-*  
10                   *mental organization, or an organization rep-*  
11                   *resenting owners and operators of farms, small*  
12                   *food processors, or small fruit and vegetable mer-*  
13                   *chant wholesalers that has a commitment to pub-*  
14                   *lic health and expertise in administering pro-*  
15                   *grams that contribute to food safety;*

16                   “(C) *an institution of higher education (as*  
17                   *defined in section 101(a) of the Higher Edu-*  
18                   *cation Act of 1965 (20 U.S.C. 1001(a)) or a*  
19                   *foundation maintained by an institution of*  
20                   *higher education;*

21                   “(D) *a collaboration of 2 or more eligible*  
22                   *entities described in this subsection; or*

23                   “(E) *such other appropriate entity, as de-*  
24                   *termined by the Secretary.*

1           “(2) *MULTISTATE PARTNERSHIPS.*—*Grants*  
2           *under this section may be made for projects involving*  
3           *more than 1 State.*

4           “(g) *REGIONAL BALANCE.*—*In making grants under*  
5           *this section, the Secretary shall, to the maximum extent*  
6           *practicable, ensure—*

7                 “(1) *geographic diversity; and*

8                 “(2) *diversity of types of agricultural produc-*  
9           *tion.*

10          “(h) *TECHNICAL ASSISTANCE.*—*The Secretary may*  
11          *use funds made available under this section to provide tech-*  
12          *nical assistance to grant recipients to further the purposes*  
13          *of this section.*

14          “(i) *BEST PRACTICES AND MODEL PROGRAMS.*—  
15          *Based on evaluations of, and responses arising from,*  
16          *projects funded under this section, the Secretary may issue*  
17          *a set of recommended best practices and models for food*  
18          *safety training programs for agricultural producers, small*  
19          *food processors, and small fresh fruit and vegetable mer-*  
20          *chant wholesalers.*

21          “(j) *AUTHORIZATION OF APPROPRIATIONS.*—*For the*  
22          *purposes of making grants under this section, there are au-*  
23          *thorized to be appropriated such sums as may be necessary*  
24          *for fiscal years 2011 through 2015.”.*

1 **SEC. 6210. ENHANCING FOOD SAFETY.**

2 (a) *GRANTS TO ENHANCE FOOD SAFETY.*—Section  
3 1009 of the Federal Food, Drug, and Cosmetic Act (21  
4 U.S.C. 399) is amended to read as follows:

5 **“SEC. 1009. GRANTS TO ENHANCE FOOD SAFETY.**

6 “(a) *IN GENERAL.*—The Secretary is authorized to  
7 make grants to eligible entities to—

8 “(1) undertake examinations, inspections, inves-  
9 tigation, and related food safety activities under sec-  
10 tion 702;

11 “(2) train to the standards of the Secretary for  
12 the examination, inspection, and investigation of food  
13 manufacturing, processing, packing, holding, dis-  
14 tribution, and importation, including as such exam-  
15 ination, inspection, and investigation relate to retail  
16 food establishments;

17 “(3) build the food safety capacity of the labora-  
18 tories of such eligible entity, including the detection  
19 of zoonotic diseases;

20 “(4) build the infrastructure and capacity of the  
21 food safety programs of such eligible entity to meet  
22 the standards as outlined in the grant application;  
23 and

24 “(5) take appropriate action to protect the public  
25 health in response to—

1           “(A) a notification under section 1008, in-  
2           cluding planning and otherwise preparing to  
3           take such action; or

4           “(B) a recall of food under this Act.

5           “(b) *ELIGIBLE ENTITIES; APPLICATION.*—

6           “(1) *IN GENERAL.*—*In this section, the term ‘eli-*  
7           *gible entity’ means an entity—*

8           “(A) that is—

9           “(i) a State;

10          “(ii) a locality;

11          “(iii) a territory;

12          “(iv) an Indian tribe (as defined in  
13          section 4(e) of the Indian Self-Determina-  
14          tion and Education Assistance Act); or

15          “(v) a nonprofit food safety training  
16          entity that collaborates with 1 or more in-  
17          stitutions of higher education; and

18          “(B) that submits an application to the  
19          Secretary at such time, in such manner, and in-  
20          cluding such information as the Secretary may  
21          reasonably require.

22          “(2) *CONTENTS.*—*Each application submitted*  
23          *under paragraph (1) shall include—*

1           “(A) an assurance that the eligible entity  
2           has developed plans to engage in the types of ac-  
3           tivities described in subsection (a);

4           “(B) a description of the types of activities  
5           to be funded by the grant;

6           “(C) an itemization of how grant funds re-  
7           ceived under this section will be expended;

8           “(D) a description of how grant activities  
9           will be monitored; and

10           “(E) an agreement by the eligible entity to  
11           report information required by the Secretary to  
12           conduct evaluations under this section.

13           “(c) *LIMITATIONS.*—The funds provided under sub-  
14           section (a) shall be available to an eligible entity that re-  
15           ceives a grant under this section only to the extent such  
16           entity funds the food safety programs of such entity inde-  
17           pendently of any grant under this section in each year of  
18           the grant at a level equal to the level of such funding in  
19           the previous year, increased by the Consumer Price Index.  
20           Such non-Federal matching funds may be provided directly  
21           or through donations from public or private entities and  
22           may be in cash or in-kind, fairly evaluated, including  
23           plant, equipment, or services.

24           “(d) *ADDITIONAL AUTHORITY.*—The Secretary may—



1           “(1) award a grant under this section in each  
2           subsequent fiscal year without reapplication for a pe-  
3           riod of not more than 3 years, provided the require-  
4           ments of subsection (c) are met for the previous fiscal  
5           year; and

6           “(2) award a grant under this section in a fiscal  
7           year for which the requirement of subsection (c) has  
8           not been met only if such requirement was not met  
9           because such funding was diverted for response to 1  
10          or more natural disasters or in other extenuating cir-  
11          cumstances that the Secretary may determine appro-  
12          priate.

13          “(e) *DURATION OF AWARDS.*—The Secretary may  
14          award grants to an individual grant recipient under this  
15          section for periods of not more than 3 years. In the event  
16          the Secretary conducts a program evaluation, funding in  
17          the second year or third year of the grant, where applicable,  
18          shall be contingent on a successful program evaluation by  
19          the Secretary after the first year.

20          “(f) *PROGRESS AND EVALUATION.*—

21                 “(1) *IN GENERAL.*—The Secretary shall measure  
22                 the status and success of each grant program author-  
23                 ized under the FDA Food Safety Modernization Act  
24                 (and any amendment made by such Act), including  
25                 the grant program under this section. A recipient of

1        *a grant described in the preceding sentence shall, at*  
2        *the end of each grant year, provide the Secretary with*  
3        *information on how grant funds were spent and the*  
4        *status of the efforts by such recipient to enhance food*  
5        *safety. To the extent practicable, the Secretary shall*  
6        *take the performance of such a grant recipient into*  
7        *account when determining whether to continue fund-*  
8        *ing for such recipient.*

9                *“(2) NO DUPLICATION.—In carrying out para-*  
10        *graph (1), the Secretary shall not duplicate the efforts*  
11        *of the Secretary under other provisions of this Act or*  
12        *the FDA Food Safety Modernization Act that require*  
13        *measurement and review of the activities of grant re-*  
14        *cipients under either such Act.*

15                *“(g) SUPPLEMENT NOT SUPPLANT.—Grant funds re-*  
16        *ceived under this section shall be used to supplement, and*  
17        *not supplant, non-Federal funds and any other Federal*  
18        *funds available to carry out the activities described in this*  
19        *section.*

20                *“(h) AUTHORIZATION OF APPROPRIATIONS.—For the*  
21        *purpose of making grants under this section, there are au-*  
22        *thorized to be appropriated such sums as may be necessary*  
23        *for fiscal years 2011 through 2015.”.*



1           *and distribution, as well as leadership in the*  
2           *laboratory, epidemiological, and environmental*  
3           *detection and investigation of foodborne illness;*  
4           *and*

5           “(C) *provide to the Secretary such informa-*  
6           *tion, at such time, and in such manner, as the*  
7           *Secretary may require.*

8           “(2) *WORKING GROUP.—Not later than 180 days*  
9           *after the date of enactment of the FDA Food Safety*  
10          *Modernization Act, the Secretary shall establish a di-*  
11          *verse working group of experts and stakeholders from*  
12          *Federal, State, and local food safety and health agen-*  
13          *cies, the food industry, including food retailers and*  
14          *food manufacturers, consumer organizations, and aca-*  
15          *demia to make recommendations to the Secretary re-*  
16          *garding designations of the Centers of Excellence.*

17          “(3) *ADDITIONAL CENTERS OF EXCELLENCE.—*  
18          *The Secretary may designate eligible entities to be re-*  
19          *gional Food Safety Centers of Excellence, in addition*  
20          *to the 5 Centers designated under subsection (a).*

21          “(c) *ACTIVITIES.—Under the leadership of the Director*  
22          *of the Centers for Disease Control and Prevention, each Cen-*  
23          *ter of Excellence shall be based out of a selected State health*  
24          *department, which shall provide assistance to other re-*

1 gional, State, and local departments of health through ac-  
2 tivities that include—

3           “(1) providing resources, including timely infor-  
4 mation concerning symptoms and tests, for frontline  
5 health professionals interviewing individuals as part  
6 of routine surveillance and outbreak investigations;

7           “(2) providing analysis of the timeliness and ef-  
8 fectiveness of foodborne disease surveillance and out-  
9 break response activities;

10           “(3) providing training for epidemiological and  
11 environmental investigation of foodborne illness, in-  
12 cluding suggestions for streamlining and standard-  
13 izing the investigation process;

14           “(4) establishing fellowships, stipends, and schol-  
15 arships to train future epidemiological and food-safe-  
16 ty leaders and to address critical workforce shortages;

17           “(5) training and coordinating State and local  
18 personnel;

19           “(6) strengthening capacity to participate in ex-  
20 isting or new foodborne illness surveillance and envi-  
21 ronmental assessment information systems; and

22           “(7) conducting research and outreach activities  
23 focused on increasing prevention, communication,  
24 and education regarding food safety.

1       “(d) *REPORT TO CONGRESS.*—Not later than 2 years  
2 after the date of enactment of the *FDA Food Safety Mod-*  
3 *ernization Act*, the Secretary shall submit to Congress a re-  
4 port that—

5               “(1) describes the effectiveness of the Centers of  
6 Excellence; and

7               “(2) provides legislative recommendations or de-  
8 scribes additional resources required by the Centers of  
9 Excellence.

10       “(e) *AUTHORIZATION OF APPROPRIATIONS.*—There is  
11 authorized to be appropriated such sums as may be nec-  
12 essary to carry out this section.

13       “(f) *NO DUPLICATION OF EFFORT.*—In carrying out  
14 activities of the Centers of Excellence or other programs  
15 under this section, the Secretary shall not duplicate other  
16 Federal foodborne illness response efforts.”.

17 **SEC. 6211. IMPROVING THE REPORTABLE FOOD REGISTRY.**

18       “(a) *IN GENERAL.*—Section 417 (21 U.S.C. 350f) is  
19 amended—

20               (1) by redesignating subsections (f) through (k)  
21 as subsections (i) through (n), respectively; and

22               (2) by inserting after subsection (e) the following:

23       “(f) *CRITICAL INFORMATION.*—Except with respect to  
24 fruits and vegetables that are raw agricultural commodities,  
25 not more than 18 months after the date of enactment of

1 *the FDA Food Safety Modernization Act, the Secretary may*  
2 *require a responsible party to submit to the Secretary con-*  
3 *sumer-oriented information regarding a reportable food,*  
4 *which shall include—*

5           “(1) *a description of the article of food as pro-*  
6 *vided in subsection (e)(3);*

7           “(2) *as provided in subsection (e)(7), affected*  
8 *product identification codes, such as UPC, SKU, or*  
9 *lot or batch numbers sufficient for the consumer to*  
10 *identify the article of food;*

11           “(3) *contact information for the responsible*  
12 *party as provided in subsection (e)(8); and*

13           “(4) *any other information the Secretary deter-*  
14 *mines is necessary to enable a consumer to accurately*  
15 *identify whether such consumer is in possession of the*  
16 *reportable food.*

17           “(g) *GROCERY STORE NOTIFICATION.—*

18           “(1) *ACTION BY SECRETARY.—The Secretary*  
19 *shall—*

20           “(A) *prepare the critical information de-*  
21 *scribed under subsection (f) for a reportable food*  
22 *as a standardized one-page summary;*

23           “(B) *publish such one-page summary on the*  
24 *Internet website of the Food and Drug Adminis-*  
25 *tration in a format that can be easily printed by*

1           *a grocery store for purposes of consumer notifica-*  
2           *tion.*

3           “(2) *ACTION BY GROCERY STORE.*—*A notifica-*  
4           *tion described under paragraph (1)(B) shall include*  
5           *the date and time such summary was posted on the*  
6           *Internet website of the Food and Drug Administra-*  
7           *tion.*

8           “(h) *CONSUMER NOTIFICATION.*—

9           “(1) *IN GENERAL.*—*If a grocery store sold a re-*  
10          *portable food that is the subject of the posting and*  
11          *such establishment is part of chain of establishments*  
12          *with 15 or more physical locations, then such estab-*  
13          *lishment shall, not later than 24 hours after a one*  
14          *page summary described in subsection (g) is pub-*  
15          *lished, prominently display such summary or the in-*  
16          *formation from such summary via at least one of the*  
17          *methods identified under paragraph (2) and main-*  
18          *tain the display for 14 days.*

19          “(2) *LIST OF CONSPICUOUS LOCATIONS.*—*Not*  
20          *more than 1 year after the date of enactment of the*  
21          *FDA Food Safety Modernization Act, the Secretary*  
22          *shall develop and publish a list of acceptable con-*  
23          *spicuous locations and manners, from which grocery*  
24          *stores shall select at least one, for providing the notifi-*



1        *cation required in paragraph (1). Such list shall in-*  
2        *clude—*

3                *“(A) posting the notification at or near the*  
4                *register;*

5                *“(B) providing the location of the reportable*  
6                *food;*

7                *“(C) providing targeted recall information*  
8                *given to customers upon purchase of a food; and*

9                *“(D) other such prominent and conspicuous*  
10                *locations and manners utilized by grocery stores*  
11                *as of the date of the enactment of the FDA Food*  
12                *Safety Modernization Act to provide notice of*  
13                *such recalls to consumers as considered appro-*  
14                *priate by the Secretary.”.*

15        *(b) PROHIBITED ACT.—Section 301 (21 U.S.C. 331),*  
16        *as amended by section 6206, is amended by adding at the*  
17        *end the following:*

18                *“(yy) The knowing and willful failure to comply with*  
19                *the notification requirement under section 417(h).”.*

20        *(c) CONFORMING AMENDMENT.—Section 301(e) (21*  
21        *U.S.C. 331(e)) is amended by striking “417(g)” and insert-*  
22        *ing “417(j)”.*

1       **TITLE III—IMPROVING THE**  
2       **SAFETY OF IMPORTED FOOD**

3       **SEC. 6301. FOREIGN SUPPLIER VERIFICATION PROGRAM.**

4       (a) *IN GENERAL.*—Chapter VIII (21 U.S.C. 381 et  
5 *seq.*) is amended by adding at the end the following:

6       **“SEC. 805. FOREIGN SUPPLIER VERIFICATION PROGRAM.**

7       “(a) *IN GENERAL.*—

8               “(1) *VERIFICATION REQUIREMENT.*—*Except as*  
9       *provided under subsections (e) and (f), each importer*  
10       *shall perform risk-based foreign supplier verification*  
11       *activities for the purpose of verifying that the food*  
12       *imported by the importer or agent of an importer*  
13       *is—*

14               “(A) *produced in compliance with the re-*  
15       *quirements of section 418 or section 419, as ap-*  
16       *propriate; and*

17               “(B) *is not adulterated under section 402 or*  
18       *misbranded under section 403(w).*

19               “(2) *IMPORTER DEFINED.*—*For purposes of this*  
20       *section, the term ‘importer’ means, with respect to an*  
21       *article of food—*

22               “(A) *the United States owner or consignee*  
23       *of the article of food at the time of entry of such*  
24       *article into the United States; or*

1           “(B) *in the case when there is no United*  
2           *States owner or consignee as described in sub-*  
3           *paragraph (A), the United States agent or rep-*  
4           *resentative of a foreign owner or consignee of the*  
5           *article of food at the time of entry of such article*  
6           *into the United States.*

7           “(b) *GUIDANCE.—Not later than 1 year after the date*  
8           *of enactment of the FDA Food Safety Modernization Act,*  
9           *the Secretary shall issue guidance to assist importers in de-*  
10          *veloping foreign supplier verification programs.*

11          “(c) *REGULATIONS.—*

12           “(1) *IN GENERAL.—Not later than 1 year after*  
13          *the date of enactment of the FDA Food Safety Mod-*  
14          *ernization Act, the Secretary shall promulgate regula-*  
15          *tions to provide for the content of the foreign supplier*  
16          *verification program established under subsection (a).*

17           “(2) *REQUIREMENTS.—The regulations promul-*  
18          *gated under paragraph (1)—*

19           “(A) *shall require that the foreign supplier*  
20          *verification program of each importer be ade-*  
21          *quate to provide assurances that each foreign*  
22          *supplier to the importer produces the imported*  
23          *food in compliance with—*

24           “(i) *processes and procedures, includ-*  
25          *ing reasonably appropriate risk-based pre-*

1            *ventive controls, that provide the same level*  
2            *of public health protection as those required*  
3            *under section 418 or section 419 (taking*  
4            *into consideration variances granted under*  
5            *section 419), as appropriate; and*

6            *“(ii) section 402 and section 403(w).*

7            *“(B) shall include such other requirements*  
8            *as the Secretary deems necessary and appro-*  
9            *priate to verify that food imported into the*  
10           *United States is as safe as food produced and*  
11           *sold within the United States.*

12           *“(3) CONSIDERATIONS.—In promulgating regu-*  
13           *lations under this subsection, the Secretary shall, as*  
14           *appropriate, take into account differences among im-*  
15           *porters and types of imported foods, including based*  
16           *on the level of risk posed by the imported food.*

17           *“(4) ACTIVITIES.—Verification activities under a*  
18           *foreign supplier verification program under this sec-*  
19           *tion may include monitoring records for shipments,*  
20           *lot-by-lot certification of compliance, annual on-site*  
21           *inspections, checking the hazard analysis and risk-*  
22           *based preventive control plan of the foreign supplier,*  
23           *and periodically testing and sampling shipments.*

24           *“(d) RECORD MAINTENANCE AND ACCESS.—Records of*  
25           *an importer related to a foreign supplier verification pro-*

1 gram shall be maintained for a period of not less than 2  
2 years and shall be made available promptly to a duly au-  
3 thorized representative of the Secretary upon request.

4       “(e) *EXEMPTION OF SEAFOOD, JUICE, AND LOW-ACID*  
5 *CANNED FOOD FACILITIES IN COMPLIANCE WITH*  
6 *HACCP.*—*This section shall not apply to a facility if the*  
7 *owner, operator, or agent in charge of such facility is re-*  
8 *quired to comply with, and is in compliance with, 1 of the*  
9 *following standards and regulations with respect to such fa-*  
10 *cility:*

11               “(1) *The Seafood Hazard Analysis Critical Con-*  
12 *trol Points Program of the Food and Drug Adminis-*  
13 *tration.*

14               “(2) *The Juice Hazard Analysis Critical Control*  
15 *Points Program of the Food and Drug Administra-*  
16 *tion.*

17               “(3) *The Thermally Processed Low-Acid Foods*  
18 *Packaged in Hermetically Sealed Containers stand-*  
19 *ards of the Food and Drug Administration (or any*  
20 *successor standards).*

21 *The exemption under paragraph (3) shall apply only with*  
22 *respect to microbiological hazards that are regulated under*  
23 *the standards for Thermally Processed Low-Acid Foods*  
24 *Packaged in Hermetically Sealed Containers under part*

1 113 of chapter 21, Code of Federal Regulations (or any suc-  
2 cessor regulations).

3 “(f) *ADDITIONAL EXEMPTIONS.*—The Secretary, by no-  
4 tice published in the Federal Register, shall establish an ex-  
5 emption from the requirements of this section for articles  
6 of food imported in small quantities for research and eval-  
7 uation purposes or for personal consumption, provided that  
8 such foods are not intended for retail sale and are not sold  
9 or distributed to the public.

10 “(g) *PUBLICATION OF LIST OF PARTICIPANTS.*—The  
11 Secretary shall publish and maintain on the Internet Web  
12 site of the Food and Drug Administration a current list  
13 that includes the name of, location of, and other informa-  
14 tion deemed necessary by the Secretary about, importers  
15 participating under this section.”

16 (b) *PROHIBITED ACT.*—Section 301 (21 U.S.C. 331),  
17 as amended by section 6211, is amended by adding at the  
18 end the following:

19 “(zz) The importation or offering for importation of  
20 a food if the importer (as defined in section 805) does not  
21 have in place a foreign supplier verification program in  
22 compliance with such section 805.”

23 (c) *IMPORTS.*—Section 801(a) (21 U.S.C. 381(a)) is  
24 amended by adding “or the importer (as defined in section

1 805) is in violation of such section 805” after “or in viola-  
2 tion of section 505”.

3 (d) *EFFECTIVE DATE.*—The amendments made by this  
4 section shall take effect 2 years after the date of enactment  
5 of this Act.

6 **SEC. 6302. VOLUNTARY QUALIFIED IMPORTER PROGRAM.**

7 Chapter VIII (21 U.S.C. 381 et seq.), as amended by  
8 section 6301, is amended by adding at the end the following:

9 **“SEC. 806. VOLUNTARY QUALIFIED IMPORTER PROGRAM.**

10 “(a) *IN GENERAL.*—Beginning not later than 18  
11 months after the date of enactment of the *FDA Food Safety*  
12 *Modernization Act*, the Secretary shall—

13 “(1) establish a program, in consultation with  
14 the Secretary of Homeland Security—

15 “(A) to provide for the expedited review and  
16 importation of food offered for importation by  
17 importers who have voluntarily agreed to par-  
18 ticipate in such program; and

19 “(B) consistent with section 808, establish a  
20 process for the issuance of a facility certification  
21 to accompany food offered for importation by  
22 importers who have voluntarily agreed to par-  
23 ticipate in such program; and

1           “(2) *issue a guidance document related to par-*  
2           *ticipation in, revocation of such participation in, re-*  
3           *instatement in, and compliance with, such program.*

4           “(b) *VOLUNTARY PARTICIPATION.—An importer may*  
5           *request the Secretary to provide for the expedited review*  
6           *and importation of designated foods in accordance with the*  
7           *program established by the Secretary under subsection (a).*

8           “(c) *NOTICE OF INTENT TO PARTICIPATE.—An im-*  
9           *porter that intends to participate in the program under this*  
10          *section in a fiscal year shall submit a notice and applica-*  
11          *tion to the Secretary of such intent at the time and in a*  
12          *manner established by the Secretary.*

13          “(d) *ELIGIBILITY.—Eligibility shall be limited to an*  
14          *importer offering food for importation from a facility that*  
15          *has a certification described in subsection (a). In reviewing*  
16          *the applications and making determinations on such appli-*  
17          *cations, the Secretary shall consider the risk of the food to*  
18          *be imported based on factors, such as the following:*

19                 “(1) *The known safety risks of the food to be im-*  
20                 *ported.*

21                 “(2) *The compliance history of foreign suppliers*  
22                 *used by the importer, as appropriate.*

23                 “(3) *The capability of the regulatory system of*  
24                 *the country of export to ensure compliance with*



1       *United States food safety standards for a designated*  
2       *food.*

3               “(4) *The compliance of the importer with the re-*  
4       *quirements of section 805.*

5               “(5) *The recordkeeping, testing, inspections and*  
6       *audits of facilities, traceability of articles of food,*  
7       *temperature controls, and sourcing practices of the*  
8       *importer.*

9               “(6) *The potential risk for intentional adultera-*  
10       *tion of the food.*

11               “(7) *Any other factor that the Secretary deter-*  
12       *mines appropriate.*

13               “(e) *REVIEW AND REVOCATION.—Any importer quali-*  
14       *fied by the Secretary in accordance with the eligibility cri-*  
15       *teria set forth in this section shall be reevaluated not less*  
16       *often than once every 3 years and the Secretary shall*  
17       *promptly revoke the qualified importer status of any im-*  
18       *porter found not to be in compliance with such criteria.*

19               “(f) *FALSE STATEMENTS.—Any statement or represen-*  
20       *tation made by an importer to the Secretary shall be subject*  
21       *to section 1001 of title 18, United States Code.*

22               “(g) *DEFINITION.—For purposes of this section, the*  
23       *term ‘importer’ means the person that brings food, or causes*  
24       *food to be brought, from a foreign country into the customs*  
25       *territory of the United States.’’.*

1 **SEC. 6303. AUTHORITY TO REQUIRE IMPORT CERTIFI-**  
2 **CATIONS FOR FOOD.**

3 (a) *IN GENERAL.*—Section 801(a) (21 U.S.C. 381(a))  
4 is amended by inserting after the third sentence the fol-  
5 lowing: “With respect to an article of food, if importation  
6 of such food is subject to, but not compliant with, the re-  
7 quirement under subsection (q) that such food be accom-  
8 panied by a certification or other assurance that the food  
9 meets applicable requirements of this Act, then such article  
10 shall be refused admission.”.

11 (b) *ADDITION OF CERTIFICATION REQUIREMENT.*—  
12 Section 801 (21 U.S.C. 381) is amended by adding at the  
13 end the following new subsection:

14 “(q) *CERTIFICATIONS CONCERNING IMPORTED*  
15 *FOODS.*—

16 “(1) *IN GENERAL.*—The Secretary may require,  
17 as a condition of granting admission to an article of  
18 food imported or offered for import into the United  
19 States, that an entity described in paragraph (3) pro-  
20 vide a certification, or such other assurances as the  
21 Secretary determines appropriate, that the article of  
22 food complies with applicable requirements of this  
23 Act. Such certification or assurances may be provided  
24 in the form of shipment-specific certificates, a listing  
25 of certified facilities that manufacture, process, pack,

1        *or hold such food, or in such other form as the Sec-*  
2        *retary may specify.*

3            *“(2) FACTORS TO BE CONSIDERED IN REQUIRING*  
4        *CERTIFICATION.—The Secretary shall base the deter-*  
5        *mination that an article of food is required to have*  
6        *a certification described in paragraph (1) on the risk*  
7        *of the food, including—*

8            *“(A) known safety risks associated with the*  
9        *food;*

10           *“(B) known food safety risks associated*  
11        *with the country, territory, or region of origin of*  
12        *the food;*

13           *“(C) a finding by the Secretary, supported*  
14        *by scientific, risk-based evidence, that—*

15           *“(i) the food safety programs, systems,*  
16        *and standards in the country, territory, or*  
17        *region of origin of the food are inadequate*  
18        *to ensure that the article of food is as safe*  
19        *as a similar article of food that is manufac-*  
20        *tured, processed, packed, or held in the*  
21        *United States in accordance with the re-*  
22        *quirements of this Act; and*

23           *“(ii) the certification would assist the*  
24        *Secretary in determining whether to refuse*

1                   or admit the article of food under subsection  
2                   (a); and

3                   “(D) information submitted to the Secretary  
4                   in accordance with the process established in  
5                   paragraph (7).

6                   “(3) *CERTIFYING ENTITIES.*—For purposes of  
7                   paragraph (1), entities that shall provide the certifi-  
8                   cation or assurances described in such paragraph  
9                   are—

10                   “(A) an agency or a representative of the  
11                   government of the country from which the article  
12                   of food at issue originated, as designated by the  
13                   Secretary; or

14                   “(B) such other persons or entities accred-  
15                   ited pursuant to section 808 to provide such cer-  
16                   tification or assurance.

17                   “(4) *RENEWAL AND REFUSAL OF CERTIFI-*  
18                   *CATIONS.*—The Secretary may—

19                   “(A) require that any certification or other  
20                   assurance provided by an entity specified in  
21                   paragraph (2) be renewed by such entity at such  
22                   times as the Secretary determines appropriate;  
23                   and

1           “(B) refuse to accept any certification or  
2           assurance if the Secretary determines that such  
3           certification or assurance is not valid or reliable.

4           “(5) *ELECTRONIC SUBMISSION.*—The Secretary  
5           shall provide for the electronic submission of certifi-  
6           cations under this subsection.

7           “(6) *FALSE STATEMENTS.*—Any statement or  
8           representation made by an entity described in para-  
9           graph (2) to the Secretary shall be subject to section  
10          1001 of title 18, United States Code.

11          “(7) *ASSESSMENT OF FOOD SAFETY PROGRAMS,*  
12          *SYSTEMS, AND STANDARDS.*—If the Secretary deter-  
13          mines that the food safety programs, systems, and  
14          standards in a foreign region, country, or territory  
15          are inadequate to ensure that an article of food is as  
16          safe as a similar article of food that is manufactured,  
17          processed, packed, or held in the United States in ac-  
18          cordance with the requirements of this Act, the Sec-  
19          retary shall, to the extent practicable, identify such  
20          inadequacies and establish a process by which the for-  
21          eign region, country, or territory may inform the Sec-  
22          retary of improvements made to such food safety pro-  
23          gram, system, or standard and demonstrate that those  
24          controls are adequate to ensure that an article of food  
25          is as safe as a similar article of food that is manufac-

1        *tured, processed, packed, or held in the United States*  
2        *in accordance with the requirements of this Act.”.*

3        (c) *CONFORMING TECHNICAL AMENDMENT.*—Section  
4        *801(b) (21 U.S.C. 381(b)) is amended in the second sentence*  
5        *by striking “with respect to an article included within the*  
6        *provision of the fourth sentence of subsection (a)” and in-*  
7        *serting “with respect to an article described in subsection*  
8        *(a) relating to the requirements of sections 760 or 761,”.*

9        (d) *NO LIMIT ON AUTHORITY.*—Nothing in the amend-  
10        *ments made by this section shall limit the authority of the*  
11        *Secretary to conduct inspections of imported food or to take*  
12        *such other steps as the Secretary deems appropriate to de-*  
13        *termine the admissibility of imported food.*

14        **SEC. 6304. PRIOR NOTICE OF IMPORTED FOOD SHIPMENTS.**

15        (a) *IN GENERAL.*—Section 801(m)(1) (21 U.S.C.  
16        *381(m)(1)) is amended by inserting “any country to which*  
17        *the article has been refused entry;” after “the country from*  
18        *which the article is shipped;”.*

19        (b) *REGULATIONS.*—Not later than 120 days after the  
20        *date of enactment of this Act, the Secretary shall issue an*  
21        *interim final rule amending subpart I of part 1 of title*  
22        *21, Code of Federal Regulations, to implement the amend-*  
23        *ment made by this section.*

1           (c) *EFFECTIVE DATE.*—*The amendment made by this*  
2 *section shall take effect 180 days after the date of enactment*  
3 *of this Act.*

4 **SEC. 6305. BUILDING CAPACITY OF FOREIGN GOVERN-**  
5 **MENTS WITH RESPECT TO FOOD SAFETY.**

6           (a) *IN GENERAL.*—*The Secretary shall, not later than*  
7 *2 years of the date of enactment of this Act, develop a com-*  
8 *prehensive plan to expand the technical, scientific, and reg-*  
9 *ulatory food safety capacity of foreign governments, and*  
10 *their respective food industries, from which foods are ex-*  
11 *ported to the United States.*

12           (b) *CONSULTATION.*—*In developing the plan under*  
13 *subsection (a), the Secretary shall consult with the Sec-*  
14 *retary of Agriculture, Secretary of State, Secretary of the*  
15 *Treasury, the Secretary of Homeland Security, the United*  
16 *States Trade Representative, and the Secretary of Com-*  
17 *merce, representatives of the food industry, appropriate for-*  
18 *eign government officials, nongovernmental organizations*  
19 *that represent the interests of consumers, and other stake-*  
20 *holders.*

21           (c) *PLAN.*—*The plan developed under subsection (a)*  
22 *shall include, as appropriate, the following:*

23                   (1) *Recommendations for bilateral and multilat-*  
24 *eral arrangements and agreements, including provi-*

1        *sions to provide for responsibility of exporting coun-*  
2        *tries to ensure the safety of food.*

3            *(2) Provisions for secure electronic data sharing.*

4            *(3) Provisions for mutual recognition of inspec-*  
5        *tion reports.*

6            *(4) Training of foreign governments and food*  
7        *producers on United States requirements for safe food.*

8            *(5) Recommendations on whether and how to*  
9        *harmonize requirements under the Codex*  
10       *Alimentarius.*

11           *(6) Provisions for the multilateral acceptance of*  
12        *laboratory methods and testing and detection tech-*  
13        *niques.*

14        *(d) RULE OF CONSTRUCTION.—Nothing in this section*  
15        *shall be construed to affect the regulation of dietary supple-*  
16        *ments under the Dietary Supplement Health and Edu-*  
17        *cation Act of 1994 (Public Law 103–417).*

18        **SEC. 6306. INSPECTION OF FOREIGN FOOD FACILITIES.**

19        *(a) IN GENERAL.—Chapter VIII (21 U.S.C. 381 et*  
20        *seq.), as amended by section 6302, is amended by inserting*  
21        *at the end the following:*

22        **“SEC. 807. INSPECTION OF FOREIGN FOOD FACILITIES.**

23            *“(a) INSPECTION.—The Secretary—*

24            *“(1) may enter into arrangements and agree-*  
25        *ments with foreign governments to facilitate the in-*



1        *spection of foreign facilities registered under section*  
2        *415; and*

3            *“(2) shall direct resources to inspections of for-*  
4        *foreign facilities, suppliers, and food types, especially*  
5        *such facilities, suppliers, and food types that present*  
6        *a high risk (as identified by the Secretary), to help*  
7        *ensure the safety and security of the food supply of*  
8        *the United States.*

9            *“(b) EFFECT OF INABILITY TO INSPECT.—Notwith-*  
10       *standing any other provision of law, food shall be refused*  
11       *admission into the United States if it is from a foreign*  
12       *factory, warehouse, or other establishment of which the*  
13       *owner, operator, or agent in charge, or the government of*  
14       *the foreign country, refuses to permit entry of United States*  
15       *inspectors or other individuals duly designated by the Sec-*  
16       *retary, upon request, to inspect such factory, warehouse, or*  
17       *other establishment. For purposes of this subsection, such*  
18       *an owner, operator, or agent in charge shall be considered*  
19       *to have refused an inspection if such owner, operator, or*  
20       *agent in charge does not permit an inspection of a factory,*  
21       *warehouse, or other establishment during the 24-hour period*  
22       *after such request is submitted, or after such other time pe-*  
23       *riod, as agreed upon by the Secretary and the foreign fac-*  
24       *tory, warehouse, or other establishment.”.*

25            *(b) INSPECTION BY THE SECRETARY OF COMMERCE.—*

1           (1) *IN GENERAL.*—*The Secretary of Commerce,*  
2           *in coordination with the Secretary of Health and*  
3           *Human Services, may send 1 or more inspectors to*  
4           *a country or facility of an exporter from which sea-*  
5           *food imported into the United States originates. The*  
6           *inspectors shall assess practices and processes used in*  
7           *connection with the farming, cultivation, harvesting,*  
8           *preparation for market, or transportation of such sea-*  
9           *food and may provide technical assistance related to*  
10          *such activities.*

11           (2) *INSPECTION REPORT.*—

12           (A) *IN GENERAL.*—*The Secretary of Health*  
13           *and Human Services, in coordination with the*  
14           *Secretary of Commerce, shall—*

15                   (i) *prepare an inspection report for*  
16                   *each inspection conducted under paragraph*  
17                   (1);

18                   (ii) *provide the report to the country*  
19                   *or exporter that is the subject of the report;*  
20                   *and*

21                   (iii) *provide a 30-day period during*  
22                   *which the country or exporter may provide*  
23                   *a rebuttal or other comments on the find-*  
24                   *ings of the report to the Secretary of Health*  
25                   *and Human Services.*

1                   (B) *DISTRIBUTION AND USE OF REPORT.*—  
2                   *The Secretary of Health and Human Services*  
3                   *shall consider the inspection reports described in*  
4                   *subparagraph (A) in distributing inspection re-*  
5                   *sources under section 421 of the Federal Food,*  
6                   *Drug, and Cosmetic Act, as added by section*  
7                   *6201.*

8 **SEC. 6307. ACCREDITATION OF THIRD-PARTY AUDITORS.**

9                   *Chapter VIII (21 U.S.C. 381 et seq.), as amended by*  
10 *section 6306, is amended by adding at the end the following:*

11 **“SEC. 808. ACCREDITATION OF THIRD-PARTY AUDITORS.**

12                   “(a) *DEFINITIONS.*—*In this section:*

13                   “(1) *AUDIT AGENT.*—*The term ‘audit agent’*  
14                   *means an individual who is an employee or agent of*  
15                   *an accredited third-party auditor and, although not*  
16                   *individually accredited, is qualified to conduct food*  
17                   *safety audits on behalf of an accredited third-party*  
18                   *auditor.*

19                   “(2) *ACCREDITATION BODY.*—*The term ‘accredi-*  
20                   *tation body’ means an authority that performs ac-*  
21                   *creditation of third-party auditors.*

22                   “(3) *THIRD-PARTY AUDITOR.*—*The term ‘third-*  
23                   *party auditor’ means a foreign government, agency of*  
24                   *a foreign government, foreign cooperative, or any*  
25                   *other thirdparty, as the Secretary determines appro-*

1        *appropriate in accordance with the model standards de-*  
2        *scribed in subsection (b)(2), that is eligible to be con-*  
3        *sidered for accreditation to conduct food safety audits*  
4        *to certify that eligible entities meet the applicable re-*  
5        *quirements of this section. A third-party auditor may*  
6        *be a single individual. A third-party auditor may*  
7        *employ or use audit agents to help conduct consult-*  
8        *ative and regulatory audits.*

9                *“(4) ACCREDITED THIRD-PARTY AUDITOR.—The*  
10        *term ‘accredited third-party auditor’ means a third-*  
11        *party auditor accredited by an accreditation body to*  
12        *conduct audits of eligible entities to certify that such*  
13        *eligible entities meet the applicable requirements of*  
14        *this section. An accredited third-party auditor may*  
15        *be an individual who conducts food safety audits to*  
16        *certify that eligible entities meet the applicable re-*  
17        *quirements of this section.*

18                *“(5) CONSULTATIVE AUDIT.—The term ‘consult-*  
19        *ative audit’ means an audit of an eligible entity—*

20                        *“(A) to determine whether such entity is in*  
21                        *compliance with the provisions of this Act and*  
22                        *with applicable industry standards and prac-*  
23                        *tices; and*

24                        *“(B) the results of which are for internal*  
25                        *purposes only.*

1           “(6) *ELIGIBLE ENTITY.*—The term ‘eligible enti-  
2           ty’ means a foreign entity, including a foreign facil-  
3           ity registered under section 415, in the food import  
4           supply chain that chooses to be audited by an accred-  
5           ited third-party auditor or the audit agent of such ac-  
6           credited third-party auditor.

7           “(7) *REGULATORY AUDIT.*—The term ‘regulatory  
8           audit’ means an audit of an eligible entity—

9                   “(A) to determine whether such entity is in  
10                  compliance with the provisions of this Act; and

11                  “(B) the results of which determine—

12                          “(i) whether an article of food manu-  
13                          factured, processed, packed, or held by such  
14                          entity is eligible to receive a food certifi-  
15                          cation under section 801(q); or

16                          “(ii) whether a facility is eligible to re-  
17                          ceive a facility certification under section  
18                          806(a) for purposes of participating in the  
19                          program under section 806.

20           “(b) *ACCREDITATION SYSTEM.*—

21                   “(1) *ACCREDITATION BODIES.*—

22                           “(A) *RECOGNITION OF ACCREDITATION BOD-*  
23                           *IES.*—

24                                   “(i) *IN GENERAL.*—Not later than 2  
25                                   years after the date of enactment of the

1            *FDA Food Safety Modernization Act, the*  
2            *Secretary shall establish a system for the*  
3            *recognition of accreditation bodies that ac-*  
4            *credit third-party auditors to certify that*  
5            *eligible entities meet the applicable require-*  
6            *ments of this section.*

7            *“(i) DIRECT ACCREDITATION.—If, by*  
8            *the date that is 2 years after the date of es-*  
9            *tablishment of the system described in*  
10           *clause (i), the Secretary has not identified*  
11           *and recognized an accreditation body to*  
12           *meet the requirements of this section, the*  
13           *Secretary may directly accredit third-party*  
14           *auditors.*

15           *“(B) NOTIFICATION.—Each accreditation*  
16           *body recognized by the Secretary shall submit to*  
17           *the Secretary a list of all accredited third-party*  
18           *auditors accredited by such body and the audit*  
19           *agents of such auditors.*

20           *“(C) REVOCATION OF RECOGNITION AS AN*  
21           *ACCREDITATION BODY.—The Secretary shall*  
22           *promptly revoke the recognition of any accredita-*  
23           *tion body found not to be in compliance with the*  
24           *requirements of this section.*

1           “(D) *REINSTATEMENT.*—*The Secretary*  
2           *shall establish procedures to reinstate recognition*  
3           *of an accreditation body if the Secretary deter-*  
4           *mines, based on evidence presented by such ac-*  
5           *creditation body, that revocation was inappro-*  
6           *propriate or that the body meets the requirements*  
7           *for recognition under this section.*

8           “(2) *MODEL ACCREDITATION STANDARDS.*—*Not*  
9           *later than 18 months after the date of enactment of*  
10          *the FDA Food Safety Modernization Act, the Sec-*  
11          *retary shall develop model standards, including re-*  
12          *quirements for regulatory audit reports, and each rec-*  
13          *ognized accreditation body shall ensure that third-*  
14          *party auditors and audit agents of such auditors meet*  
15          *such standards in order to qualify such third-party*  
16          *auditors as accredited third-party auditors under this*  
17          *section. In developing the model standards, the Sec-*  
18          *retary shall look to standards in place on the date of*  
19          *the enactment of this section for guidance, to avoid*  
20          *unnecessary duplication of efforts and costs.*

21          “(c) *THIRD-PARTY AUDITORS.*—

22                 “(1) *REQUIREMENTS FOR ACCREDITATION AS A*  
23                 *THIRD-PARTY AUDITOR.*—

24                         “(A) *FOREIGN GOVERNMENTS.*—*Prior to ac-*  
25                         *crediting a foreign government or an agency of*

1           *a foreign government as an accredited third-*  
2           *party auditor, the accreditation body (or, in the*  
3           *case of direct accreditation under subsection*  
4           *(b)(1)(A)(ii), the Secretary) shall perform such*  
5           *reviews and audits of food safety programs, sys-*  
6           *tems, and standards of the government or agency*  
7           *of the government as the Secretary deems nec-*  
8           *essary, including requirements under the model*  
9           *standards developed under subsection (b)(2), to*  
10          *determine that the foreign government or agency*  
11          *of the foreign government is capable of ade-*  
12          *quately ensuring that eligible entities or foods*  
13          *certified by such government or agency meet the*  
14          *requirements of this Act with respect to food*  
15          *manufactured, processed, packed, or held for im-*  
16          *port into the United States.*

17                 “(B) *FOREIGN COOPERATIVES AND OTHER*  
18                 *THIRD PARTIES.—Prior to accrediting a foreign*  
19                 *cooperative that aggregates the products of grow-*  
20                 *ers or processors, or any other third party to be*  
21                 *an accredited third-party auditor, the accredita-*  
22                 *tion body (or, in the case of direct accreditation*  
23                 *under subsection (b)(1)(A)(ii), the Secretary)*  
24                 *shall perform such reviews and audits of the*  
25                 *training and qualifications of audit agents used*



1           by that cooperative or party and conduct such  
2           reviews of internal systems and such other inves-  
3           tigation of the cooperative or party as the Sec-  
4           retary deems necessary, including requirements  
5           under the model standards developed under sub-  
6           section (b)(2), to determine that each eligible en-  
7           tity certified by the cooperative or party has sys-  
8           tems and standards in use to ensure that such  
9           entity or food meets the requirements of this Act.

10           “(2) *REQUIREMENT TO ISSUE CERTIFICATION OF*  
11           *ELIGIBLE ENTITIES OR FOODS.—*

12           “(A) *IN GENERAL.—*An accreditation body  
13           (or, in the case of direct accreditation under sub-  
14           section (b)(1)(A)(ii), the Secretary) may not ac-  
15           credit a third-party auditor unless such third-  
16           party auditor agrees to issue a written and, as  
17           appropriate, electronic food certification, de-  
18           scribed in section 801(q), or facility certification  
19           under section 806(a), as appropriate, to accom-  
20           pany each food shipment for import into the  
21           United States from an eligible entity, subject to  
22           requirements set forth by the Secretary. Such  
23           written or electronic certification may be in-  
24           cluded with other documentation regarding such  
25           food shipment. The Secretary shall consider cer-

1           *tifications under section 801(q) and participa-*  
2           *tion in the voluntary qualified importer pro-*  
3           *gram described in section 806 when targeting in-*  
4           *spection resources under section 421.*

5           “(B) *PURPOSE OF CERTIFICATION.*—*The*  
6           *Secretary shall use certification provided by ac-*  
7           *credited third-party auditors to—*

8                   “(i) *determine, in conjunction with*  
9                   *any other assurances the Secretary may re-*  
10                  *quire under section 801(q), whether a food*  
11                  *satisfies the requirements of such section;*  
12                  *and*

13                  “(ii) *determine whether a facility is el-*  
14                  *igible to be a facility from which food may*  
15                  *be offered for import under the voluntary*  
16                  *qualified importer program under section*  
17                  *806.*

18           “(C) *REQUIREMENTS FOR ISSUING CERTIFI-*  
19           *CATION.*—

20                  “(i) *IN GENERAL.*—*An accredited*  
21                  *third-party auditor shall issue a food cer-*  
22                  *tification under section 801(q) or a facility*  
23                  *certification described under subparagraph*  
24                  *(B) only after conducting a regulatory*  
25                  *audit and such other activities that may be*

1           *necessary to establish compliance with the*  
2           *requirements of such sections.*

3           “(ii) *PROVISION OF CERTIFICATION.—*

4           *Only an accredited third-party auditor or*  
5           *the Secretary may provide a facility certifi-*  
6           *cation under section 806(a). Only those*  
7           *parties described in 801(q)(3) or the Sec-*  
8           *retary may provide a food certification*  
9           *under 301(g).*

10           “(3) *AUDIT REPORT SUBMISSION REQUIRE-*  
11           *MENTS.—*

12           “(A) *REQUIREMENTS IN GENERAL.—As a*  
13           *condition of accreditation, not later than 45*  
14           *days after conducting an audit, an accredited*  
15           *third-party auditor or audit agent of such audi-*  
16           *tor shall prepare, and, in the case of a regu-*  
17           *latory audit, submit, the audit report for each*  
18           *audit conducted, in a form and manner des-*  
19           *ignated by the Secretary, which shall include—*

20           “(i) *the identity of the persons at the*  
21           *audited eligible entity responsible for com-*  
22           *pliance with food safety requirements;*

23           “(ii) *the dates of the audit;*

24           “(iii) *the scope of the audit; and*

1           “(iv) any other information required  
2           by the Secretary that relates to or may in-  
3           fluence an assessment of compliance with  
4           this Act.

5           “(B) RECORDS.—Following any accredita-  
6           tion of a third-party auditor, the Secretary may,  
7           at any time, require the accredited third-party  
8           auditor to submit to the Secretary an onsite  
9           audit report and such other reports or documents  
10          required as part of the audit process, for any eli-  
11          gible entity certified by the third-party auditor  
12          or audit agent of such auditor. Such report may  
13          include documentation that the eligible entity is  
14          in compliance with any applicable registration  
15          requirements.

16          “(C) LIMITATION.—The requirement under  
17          subparagraph (B) shall not include any report  
18          or other documents resulting from a consultative  
19          audit by the accredited third-party auditor, ex-  
20          cept that the Secretary may access the results of  
21          a consultative audit in accordance with section  
22          414.

23          “(4) REQUIREMENTS OF ACCREDITED THIRD-  
24          PARTY AUDITORS AND AUDIT AGENTS OF SUCH AUDI-  
25          TORS.—

1           “(A) *RISKS TO PUBLIC HEALTH.*—If, at  
2           any time during an audit, an accredited third-  
3           party auditor or audit agent of such auditor dis-  
4           covers a condition that could cause or contribute  
5           to a serious risk to the public health, such audi-  
6           tor shall immediately notify the Secretary of—

7                   “(i) the identification of the eligible en-  
8                   tity subject to the audit; and

9                   “(ii) such condition.

10           “(B) *TYPES OF AUDITS.*—An accredited  
11           third-party auditor or audit agent of such audi-  
12           tor may perform consultative and regulatory au-  
13           dits of eligible entities.

14           “(C) *LIMITATIONS.*—

15                   “(i) *IN GENERAL.*—An accredited  
16                   third-party auditor may not perform a reg-  
17                   ulatory audit of an eligible entity if such  
18                   agent has performed a consultative audit or  
19                   a regulatory audit of such eligible entity  
20                   during the previous 13-month period.

21                   “(ii) *WAIVER.*—The Secretary may  
22                   waive the application of clause (i) if the  
23                   Secretary determines that there is insuffi-  
24                   cient access to accredited third-party audi-  
25                   tors in a country or region.

1           “(5) *CONFLICTS OF INTEREST.*—

2                   “(A) *THIRD-PARTY AUDITORS.*—*An accredited*  
3 *third-party auditor shall—*

4                           “(i) *not be owned, managed, or con-*  
5 *trolled by any person that owns or operates*  
6 *an eligible entity to be certified by such*  
7 *auditor;*

8                           “(ii) *in carrying out audits of eligible*  
9 *entities under this section, have procedures*  
10 *to ensure against the use of any officer or*  
11 *employee of such auditor that has a finan-*  
12 *cial conflict of interest regarding an eligible*  
13 *entity to be certified by such auditor; and*

14                           “(iii) *annually make available to the*  
15 *Secretary disclosures of the extent to which*  
16 *such auditor and the officers and employees*  
17 *of such auditor have maintained compliance*  
18 *with clauses (i) and (ii) relating to finan-*  
19 *cial conflicts of interest.*

20                   “(B) *AUDIT AGENTS.*—*An audit agent*  
21 *shall—*

22                           “(i) *not own or operate an eligible en-*  
23 *tity to be audited by such agent;*

24                           “(ii) *in carrying out audits of eligible*  
25 *entities under this section, have procedures*

1           to ensure that such agent does not have a fi-  
2           nancial conflict of interest regarding an eli-  
3           gible entity to be audited by such agent;  
4           and

5           “(iii) annually make available to the  
6           Secretary disclosures of the extent to which  
7           such agent has maintained compliance with  
8           clauses (i) and (ii) relating to financial  
9           conflicts of interest.

10          “(C) *REGULATIONS.*—The Secretary shall  
11          promulgate regulations not later than 18 months  
12          after the date of enactment of the *FDA Food*  
13          *Safety Modernization Act* to implement this sec-  
14          tion and to ensure that there are protections  
15          against conflicts of interest between an accred-  
16          ited third-party auditor and the eligible entity to  
17          be certified by such auditor or audited by such  
18          audit agent. Such regulations shall include—

19               “(i) requiring that audits performed  
20               under this section be unannounced;

21               “(ii) a structure to decrease the poten-  
22               tial for conflicts of interest, including tim-  
23               ing and public disclosure, for fees paid by  
24               eligible entities to accredited third-party  
25               auditors; and

1           “(iii) appropriate limits on financial  
2           affiliations between an accredited third-  
3           party auditor or audit agents of such audi-  
4           tor and any person that owns or operates  
5           an eligible entity to be certified by such  
6           auditor, as described in subparagraphs (A)  
7           and (B).

8           “(6) WITHDRAWAL OF ACCREDITATION.—

9           “(A) IN GENERAL.—The Secretary shall  
10          withdraw accreditation from an accredited  
11          third-party auditor—

12           “(i) if food certified under section  
13           801(q) or from a facility certified under  
14           paragraph (2)(B) by such third-party audi-  
15           tor is linked to an outbreak of foodborne ill-  
16           ness that has a reasonable probability of  
17           causing serious adverse health consequences  
18           or death in humans or animals;

19           “(ii) following an evaluation and find-  
20           ing by the Secretary that the third-party  
21           auditor no longer meets the requirements for  
22           accreditation; or

23           “(iii) following a refusal to allow  
24           United States officials to conduct such au-  
25           dits and investigations as may be necessary



1           to ensure continued compliance with the re-  
2           quirements set forth in this section.

3           “(B) *ADDITIONAL BASIS FOR WITHDRAWAL*  
4           *OF ACCREDITATION.*—*The Secretary may with-*  
5           *draw accreditation from an accredited third-*  
6           *party auditor in the case that such third-party*  
7           *auditor is accredited by an accreditation body*  
8           *for which recognition as an accreditation body*  
9           *under subsection (b)(1)(C) is revoked, if the Sec-*  
10          *retary determines that there is good cause for the*  
11          *withdrawal.*

12          “(C) *EXCEPTION.*—*The Secretary may*  
13          *wave the application of subparagraph (A)(i) if*  
14          *the Secretary—*

15                 “(i) *conducts an investigation of the*  
16                 *material facts related to the outbreak of*  
17                 *human or animal illness; and*

18                 “(ii) *reviews the steps or actions taken*  
19                 *by the third-party auditor to justify the cer-*  
20                 *tification and determines that the accredited*  
21                 *third-party auditor satisfied the require-*  
22                 *ments under section 801(q) of certifying the*  
23                 *food, or the requirements under paragraph*  
24                 *(2)(B) of certifying the entity.*

1           “(7) *REACCREDITATION.*—*The Secretary shall es-*  
2           *tablish procedures to reinstate the accreditation of a*  
3           *third-party auditor for which accreditation has been*  
4           *withdrawn under paragraph (6)—*

5                   “(A) *if the Secretary determines, based on*  
6                   *evidence presented, that the third-party auditor*  
7                   *satisfies the requirements of this section and ade-*  
8                   *quate grounds for revocation no longer exist; and*

9                   “(B) *in the case of a third-party auditor*  
10                  *accredited by an accreditation body for which*  
11                  *recognition as an accreditation body under sub-*  
12                  *section (b)(1)(C) is revoked—*

13                          “(i) *if the third-party auditor becomes*  
14                          *accredited not later than 1 year after rev-*  
15                          *ocation of accreditation under paragraph*  
16                          *(6)(A), through direct accreditation under*  
17                          *subsection (b)(1)(A)(ii) or by an accredita-*  
18                          *tion body in good standing; or*

19                          “(ii) *under such conditions as the Sec-*  
20                          *retary may require for a third-party audi-*  
21                          *tor under paragraph (6)(B).*

22           “(8) *NEUTRALIZING COSTS.*—*The Secretary shall*  
23           *establish by regulation a reimbursement (user fee)*  
24           *program, similar to the method described in section*  
25           *203(h) of the Agriculture Marketing Act of 1946, by*

1       *which the Secretary assesses fees and requires accred-*  
2       *ited third-party auditors and audit agents to reim-*  
3       *burse the Food and Drug Administration for the work*  
4       *performed to establish and administer the accredita-*  
5       *tion system under this section. The Secretary shall*  
6       *make operating this program revenue-neutral and*  
7       *shall not generate surplus revenue from such a reim-*  
8       *bursement mechanism. Fees authorized under this*  
9       *paragraph shall be collected and available for obliga-*  
10      *tion only to the extent and in the amount provided*  
11      *in advance in appropriation Acts. Such fees are au-*  
12      *thorized to remain available until expended.*

13      “(d) *RECERTIFICATION OF ELIGIBLE ENTITIES.—An*  
14      *eligible entity shall apply for annual recertification by an*  
15      *accredited third-party auditor if such entity—*

16             “(1) *intends to participate in voluntary quali-*  
17             *fied importer program under section 806; or*

18             “(2) *is required to provide to the Secretary a*  
19             *certification under section 801(q) for any food from*  
20             *such entity.*

21      “(e) *FALSE STATEMENTS.—Any statement or rep-*  
22      *resentation made—*

23             “(1) *by an employee or agent of an eligible enti-*  
24             *ty to an accredited third-party auditor or audit*  
25             *agent; or*

1           “(2) by an accredited third-party auditor to the  
2       Secretary,  
3 shall be subject to section 1001 of title 18, United States  
4 Code.

5           “(f) MONITORING.—To ensure compliance with the re-  
6 quirements of this section, the Secretary shall—

7           “(1) periodically, or at least once every 4 years,  
8 reevaluate the accreditation bodies described in sub-  
9 section (b)(1);

10           “(2) periodically, or at least once every 4 years,  
11 evaluate the performance of each accredited third-  
12 party auditor, through the review of regulatory audit  
13 reports by such auditors, the compliance history as  
14 available of eligible entities certified by such auditors,  
15 and any other measures deemed necessary by the Sec-  
16 retary;

17           “(3) at any time, conduct an onsite audit of any  
18 eligible entity certified by an accredited third-party  
19 auditor, with or without the auditor present; and

20           “(4) take any other measures deemed necessary  
21 by the Secretary.

22           “(g) PUBLICLY AVAILABLE REGISTRY.—The Secretary  
23 shall establish a publicly available registry of accreditation  
24 bodies and of accredited third-party auditors, including the  
25 name of, contact information for, and other information

1 *deemed necessary by the Secretary about such bodies and*  
2 *auditors.*

3 “(h) *LIMITATIONS.*—

4 “(1) *NO EFFECT ON SECTION 704 INSPECTIONS.*—  
5 *The audits performed under this section shall not be*  
6 *considered inspections under section 704.*

7 “(2) *NO EFFECT ON INSPECTION AUTHORITY.*—  
8 *Nothing in this section affects the authority of the*  
9 *Secretary to inspect any eligible entity pursuant to*  
10 *this Act.*”.

11 **SEC. 6308. FOREIGN OFFICES OF THE FOOD AND DRUG AD-**  
12 **MINISTRATION.**

13 (a) *IN GENERAL.*—*The Secretary shall establish offices*  
14 *of the Food and Drug Administration in foreign countries*  
15 *selected by the Secretary, to provide assistance to the appro-*  
16 *priate governmental entities of such countries with respect*  
17 *to measures to provide for the safety of articles of food and*  
18 *other products regulated by the Food and Drug Administra-*  
19 *tion exported by such country to the United States, includ-*  
20 *ing by directly conducting risk-based inspections of such ar-*  
21 *ticles and supporting such inspections by such govern-*  
22 *mental entity.*

23 (b) *CONSULTATION.*—*In establishing the foreign offices*  
24 *described in subsection (a), the Secretary shall consult with*

1 *the Secretary of State, the Secretary of Homeland Security,*  
2 *and the United States Trade Representative.*

3 (c) *REPORT.*—Not later than October 1, 2011, the Sec-  
4 *retary shall submit to Congress a report on the basis for*  
5 *the selection by the Secretary of the foreign countries in*  
6 *which the Secretary established offices, the progress which*  
7 *such offices have made with respect to assisting the govern-*  
8 *ments of such countries in providing for the safety of arti-*  
9 *cles of food and other products regulated by the Food and*  
10 *Drug Administration exported to the United States, and*  
11 *the plans of the Secretary for establishing additional foreign*  
12 *offices of the Food and Drug Administration, as appro-*  
13 *priate.*

14 **SEC. 6309. SMUGGLED FOOD.**

15 (a) *IN GENERAL.*—Not later than 180 days after the  
16 *enactment of this Act, the Secretary shall, in coordination*  
17 *with the Secretary of Homeland Security, develop and im-*  
18 *plement a strategy to better identify smuggled food and pre-*  
19 *vent entry of such food into the United States.*

20 (b) *NOTIFICATION TO HOMELAND SECURITY.*—Not  
21 *later than 10 days after the Secretary identifies a smuggled*  
22 *food that the Secretary believes would cause serious adverse*  
23 *health consequences or death to humans or animals, the Sec-*  
24 *retary shall provide to the Secretary of Homeland Security*  
25 *a notification under section 417(n) of the Federal Food,*

1 *Drug, and Cosmetic Act (21 U.S.C. 350f(k)) describing the*  
2 *smuggled food and, if available, the names of the individ-*  
3 *uals or entities that attempted to import such food into the*  
4 *United States.*

5 *(c) PUBLIC NOTIFICATION.—If the Secretary—*

6 *(1) identifies a smuggled food;*

7 *(2) reasonably believes exposure to the food*  
8 *would cause serious adverse health consequences or*  
9 *death to humans or animals; and*

10 *(3) reasonably believes that the food has entered*  
11 *domestic commerce and is likely to be consumed,*

12 *the Secretary shall promptly issue a press release describing*  
13 *that food and shall use other emergency communication or*  
14 *recall networks, as appropriate, to warn consumers and*  
15 *vendors about the potential threat.*

16 *(d) EFFECT OF SECTION.—Nothing in this section*  
17 *shall affect the authority of the Secretary to issue public*  
18 *notifications under other circumstances.*

19 *(e) DEFINITION.—In this subsection, the term “smug-*  
20 *gled food” means any food that a person introduces into*  
21 *the United States through fraudulent means or with the in-*  
22 *tent to defraud or mislead.*

1           **TITLE IV—MISCELLANEOUS**  
2                           **PROVISIONS**

3   **SEC. 6401. FUNDING FOR FOOD SAFETY.**

4           (a) *IN GENERAL.*—*There are authorized to be appro-*  
5 *priated to carry out the activities of the Center for Food*  
6 *Safety and Applied Nutrition, the Center for Veterinary*  
7 *Medicine, and related field activities in the Office of Regu-*  
8 *latory Affairs of the Food and Drug Administration such*  
9 *sums as may be necessary for fiscal years 2011 through*  
10 *2015.*

11           (b) *INCREASED NUMBER OF FIELD STAFF.*—

12                   (1) *IN GENERAL.*—*To carry out the activities of*  
13 *the Center for Food Safety and Applied Nutrition, the*  
14 *Center for Veterinary Medicine, and related field ac-*  
15 *tivities of the Office of Regulatory Affairs of the Food*  
16 *and Drug Administration, the Secretary of Health*  
17 *and Human Services shall increase the field staff of*  
18 *such Centers and Office with a goal of not fewer*  
19 *than—*

20                           (A) *4,000 staff members in fiscal year 2011;*

21                           (B) *4,200 staff members in fiscal year 2012;*

22                           (C) *4,600 staff members in fiscal year 2013;*

23                           *and*

24                           (D) *5,000 staff members in fiscal year 2014.*



1           (2) *FIELD STAFF FOR FOOD DEFENSE.*—*The goal*  
2           *under paragraph (1) shall include an increase of 150*  
3           *employees by fiscal year 2011 to—*

4                   (A) *provide additional detection of and re-*  
5                   *sponse to food defense threats; and*

6                   (B) *detect, track, and remove smuggled food*  
7                   *(as defined in section 6309) from commerce.*

8   **SEC. 6402. EMPLOYEE PROTECTIONS.**

9           *Chapter X of the Federal Food, Drug, and Cosmetic*  
10          *Act (21 U.S.C. 391 et seq.), as amended by section 6209,*  
11          *is further amended by adding at the end the following:*

12   **“SEC. 1013. EMPLOYEE PROTECTIONS.**

13           *“(a) IN GENERAL.—No entity engaged in the manu-*  
14          *facture, processing, packing, transporting, distribution, re-*  
15          *ception, holding, or importation of food may discharge an*  
16          *employee or otherwise discriminate against an employee*  
17          *with respect to compensation, terms, conditions, or privi-*  
18          *leges of employment because the employee, whether at the*  
19          *employee’s initiative or in the ordinary course of the em-*  
20          *ployee’s duties (or any person acting pursuant to a request*  
21          *of the employee)—*

22                   *“(1) provided, caused to be provided, or is about*  
23                   *to provide or cause to be provided to the employer, the*  
24                   *Federal Government, or the attorney general of a*  
25                   *State information relating to any violation of, or any*

1 *act or omission the employee reasonably believes to be*  
2 *a violation of any provision of this Act or any order,*  
3 *rule, regulation, standard, or ban under this Act, or*  
4 *any order, rule, regulation, standard, or ban under*  
5 *this Act;*

6 *“(2) testified or is about to testify in a pro-*  
7 *ceeding concerning such violation;*

8 *“(3) assisted or participated or is about to assist*  
9 *or participate in such a proceeding; or*

10 *“(4) objected to, or refused to participate in, any*  
11 *activity, policy, practice, or assigned task that the*  
12 *employee (or other such person) reasonably believed to*  
13 *be in violation of any provision of this Act, or any*  
14 *order, rule, regulation, standard, or ban under this*  
15 *Act.*

16 *“(b) PROCESS.—*

17 *“(1) IN GENERAL.—A person who believes that*  
18 *he or she has been discharged or otherwise discrimi-*  
19 *nated against by any person in violation of sub-*  
20 *section (a) may, not later than 180 days after the*  
21 *date on which such violation occurs, file (or have any*  
22 *person file on his or her behalf) a complaint with the*  
23 *Secretary of Labor (referred to in this section as the*  
24 *‘Secretary’) alleging such discharge or discrimination*  
25 *and identifying the person responsible for such act.*

1       *Upon receipt of such a complaint, the Secretary shall*  
2       *notify, in writing, the person named in the complaint*  
3       *of the filing of the complaint, of the allegations con-*  
4       *tained in the complaint, of the substance of evidence*  
5       *supporting the complaint, and of the opportunities*  
6       *that will be afforded to such person under paragraph*  
7       *(2).*

8               “(2) *INVESTIGATION.—*

9               “(A) *IN GENERAL.—Not later than 60 days*  
10              *after the date of receipt of a complaint filed*  
11              *under paragraph (1) and after affording the*  
12              *complainant and the person named in the com-*  
13              *plaint an opportunity to submit to the Secretary*  
14              *a written response to the complaint and an op-*  
15              *portunity to meet with a representative of the*  
16              *Secretary to present statements from witnesses,*  
17              *the Secretary shall initiate an investigation and*  
18              *determine whether there is reasonable cause to*  
19              *believe that the complaint has merit and notify,*  
20              *in writing, the complainant and the person al-*  
21              *leged to have committed a violation of subsection*  
22              *(a) of the Secretary’s findings.*

23              “(B) *REASONABLE CAUSE FOUND; PRELIMI-*  
24              *NARY ORDER.—If the Secretary concludes that*  
25              *there is reasonable cause to believe that a viola-*

1           tion of subsection (a) has occurred, the Secretary  
2           shall accompany the Secretary's findings with a  
3           preliminary order providing the relief prescribed  
4           by paragraph (3)(B). Not later than 30 days  
5           after the date of notification of findings under  
6           this paragraph, the person alleged to have com-  
7           mitted the violation or the complainant may file  
8           objections to the findings or preliminary order,  
9           or both, and request a hearing on the record. The  
10          filing of such objections shall not operate to stay  
11          any reinstatement remedy contained in the pre-  
12          liminary order. Any such hearing shall be con-  
13          ducted expeditiously. If a hearing is not re-  
14          quested in such 30-day period, the preliminary  
15          order shall be deemed a final order that is not  
16          subject to judicial review.

17                   “(C) DISMISSAL OF COMPLAINT.—

18                           “(i) STANDARD FOR COMPLAINANT.—

19                   The Secretary shall dismiss a complaint  
20                   filed under this subsection and shall not  
21                   conduct an investigation otherwise required  
22                   under subparagraph (A) unless the com-  
23                   plainant makes a prima facie showing that  
24                   any behavior described in paragraphs (1)  
25                   through (4) of subsection (a) was a contrib-

1            *uting factor in the unfavorable personnel*  
2            *action alleged in the complaint.*

3            “(ii) *STANDARD FOR EMPLOYER.*—*Not-*  
4            *withstanding a finding by the Secretary*  
5            *that the complainant has made the showing*  
6            *required under clause (i), no investigation*  
7            *otherwise required under subparagraph (A)*  
8            *shall be conducted if the employer dem-*  
9            *onstrates, by clear and convincing evidence,*  
10           *that the employer would have taken the*  
11           *same unfavorable personnel action in the*  
12           *absence of that behavior.*

13           “(iii) *VIOLATION STANDARD.*—*The Sec-*  
14           *retary may determine that a violation of*  
15           *subsection (a) has occurred only if the com-*  
16           *plainant demonstrates that any behavior*  
17           *described in paragraphs (1) through (4) of*  
18           *subsection (a) was a contributing factor in*  
19           *the unfavorable personnel action alleged in*  
20           *the complaint.*

21           “(iv) *RELIEF STANDARD.*—*Relief may*  
22           *not be ordered under subparagraph (A) if*  
23           *the employer demonstrates by clear and con-*  
24           *vincing evidence that the employer would*

1           *have taken the same unfavorable personnel*  
2           *action in the absence of that behavior.*

3           “(3) *FINAL ORDER.*—

4           “(A) *IN GENERAL.*—*Not later than 120*  
5           *days after the date of conclusion of any hearing*  
6           *under paragraph (2), the Secretary shall issue a*  
7           *final order providing the relief prescribed by this*  
8           *paragraph or denying the complaint. At any*  
9           *time before issuance of a final order, a pro-*  
10           *ceeding under this subsection may be terminated*  
11           *on the basis of a settlement agreement entered*  
12           *into by the Secretary, the complainant, and the*  
13           *person alleged to have committed the violation.*

14           “(B) *CONTENT OF ORDER.*—*If, in response*  
15           *to a complaint filed under paragraph (1), the*  
16           *Secretary determines that a violation of sub-*  
17           *section (a) has occurred, the Secretary shall*  
18           *order the person who committed such violation—*

19                   “(i) *to take affirmative action to abate*  
20                   *the violation;*

21                   “(ii) *to reinstate the complainant to*  
22                   *his or her former position together with*  
23                   *compensation (including back pay) and re-*  
24                   *store the terms, conditions, and privileges*  
25                   *associated with his or her employment; and*

1                   “(iii) to provide compensatory dam-  
2                   ages to the complainant.

3                   “(C) *PENALTY.*—If such an order is issued  
4                   under this paragraph, the Secretary, at the re-  
5                   quest of the complainant, shall assess against the  
6                   person against whom the order is issued a sum  
7                   equal to the aggregate amount of all costs and  
8                   expenses (including attorneys’ and expert witness  
9                   fees) reasonably incurred, as determined by the  
10                  Secretary, by the complainant for, or in connec-  
11                  tion with, the bringing of the complaint upon  
12                  which the order was issued.

13                  “(D) *BAD FAITH CLAIM.*—If the Secretary  
14                  finds that a complaint under paragraph (1) is  
15                  frivolous or has been brought in bad faith, the  
16                  Secretary may award to the prevailing employer  
17                  a reasonable attorneys’ fee, not exceeding \$1,000,  
18                  to be paid by the complainant.

19                  “(4) *ACTION IN COURT.*—

20                  “(A) *IN GENERAL.*—If the Secretary has not  
21                  issued a final decision within 210 days after the  
22                  filing of the complaint, or within 90 days after  
23                  receiving a written determination, the complain-  
24                  ant may bring an action at law or equity for de  
25                  novo review in the appropriate district court of

1           *the United States with jurisdiction, which shall*  
2           *have jurisdiction over such an action without re-*  
3           *gard to the amount in controversy, and which*  
4           *action shall, at the request of either party to such*  
5           *action, be tried by the court with a jury. The*  
6           *proceedings shall be governed by the same legal*  
7           *burdens of proof specified in paragraph (2)(C).*

8           “(B) *RELIEF.*—*The court shall have juris-*  
9           *isdiction to grant all relief necessary to make the*  
10           *employee whole, including injunctive relief and*  
11           *compensatory damages, including—*

12                   “(i) *reinstatement with the same se-*  
13                   *niority status that the employee would have*  
14                   *had, but for the discharge or discrimina-*  
15                   *tion;*

16                   “(ii) *the amount of back pay, with in-*  
17                   *terest; and*

18                   “(iii) *compensation for any special*  
19                   *damages sustained as a result of the dis-*  
20                   *charge or discrimination, including litiga-*  
21                   *tion costs, expert witness fees, and reason-*  
22                   *able attorney’s fees.*

23           “(5) *REVIEW.*—

24                   “(A) *IN GENERAL.*—*Unless the complainant*  
25           *brings an action under paragraph (4), any per-*



1            *son adversely affected or aggrieved by a final*  
2            *order issued under paragraph (3) may obtain re-*  
3            *view of the order in the United States Court of*  
4            *Appeals for the circuit in which the violation,*  
5            *with respect to which the order was issued, alleg-*  
6            *edly occurred or the circuit in which the com-*  
7            *plainant resided on the date of such violation.*  
8            *The petition for review must be filed not later*  
9            *than 60 days after the date of the issuance of the*  
10           *final order of the Secretary. Review shall con-*  
11           *form to chapter 7 of title 5, United States Code.*  
12           *The commencement of proceedings under this*  
13           *subparagraph shall not, unless ordered by the*  
14           *court, operate as a stay of the order.*

15           “(B) *NO JUDICIAL REVIEW.*—*An order of*  
16           *the Secretary with respect to which review could*  
17           *have been obtained under subparagraph (A) shall*  
18           *not be subject to judicial review in any criminal*  
19           *or other civil proceeding.*

20           “(6) *FAILURE TO COMPLY WITH ORDER.*—*When-*  
21           *ever any person has failed to comply with an order*  
22           *issued under paragraph (3), the Secretary may file a*  
23           *civil action in the United States district court for the*  
24           *district in which the violation was found to occur, or*  
25           *in the United States district court for the District of*

1        *Columbia, to enforce such order. In actions brought*  
2        *under this paragraph, the district courts shall have*  
3        *jurisdiction to grant all appropriate relief including,*  
4        *but not limited to, injunctive relief and compensatory*  
5        *damages.*

6            “(7) *CIVIL ACTION TO REQUIRE COMPLIANCE.—*

7            “(A) *IN GENERAL.—A person on whose be-*  
8        *half an order was issued under paragraph (3)*  
9        *may commence a civil action against the person*  
10       *to whom such order was issued to require com-*  
11       *pliance with such order. The appropriate United*  
12       *States district court shall have jurisdiction,*  
13       *without regard to the amount in controversy or*  
14       *the citizenship of the parties, to enforce such*  
15       *order.*

16           “(B) *AWARD.—The court, in issuing any*  
17       *final order under this paragraph, may award*  
18       *costs of litigation (including reasonable attor-*  
19       *neys’ and expert witness fees) to any party*  
20       *whenever the court determines such award is ap-*  
21       *propriate.*

22           “(c) *EFFECT OF SECTION.—*

23           “(1) *OTHER LAWS.—Nothing in this section pre-*  
24       *empts or diminishes any other safeguards against dis-*  
25       *crimination, demotion, discharge, suspension, threats,*

1       *harassment, reprimand, retaliation, or any other*  
2       *manner of discrimination provided by Federal or*  
3       *State law.*

4               “(2) *RIGHTS OF EMPLOYEES.*—*Nothing in this*  
5       *section shall be construed to diminish the rights,*  
6       *privileges, or remedies of any employee under any*  
7       *Federal or State law or under any collective bar-*  
8       *gaining agreement. The rights and remedies in this*  
9       *section may not be waived by any agreement, policy,*  
10       *form, or condition of employment.*

11              “(d) *ENFORCEMENT.*—*Any nondiscretionary duty im-*  
12       *posed by this section shall be enforceable in a mandamus*  
13       *proceeding brought under section 1361 of title 28, United*  
14       *States Code.*

15              “(e) *LIMITATION.*—*Subsection (a) shall not apply with*  
16       *respect to an employee of an entity engaged in the manufac-*  
17       *ture, processing, packing, transporting, distribution, recep-*  
18       *tion, holding, or importation of food who, acting without*  
19       *direction from such entity (or such entity’s agent), delib-*  
20       *erately causes a violation of any requirement relating to*  
21       *any violation or alleged violation of any order, rule, regula-*  
22       *tion, standard, or ban under this Act.”.*

23       **SEC. 6403. JURISDICTION; AUTHORITIES.**

24              *Nothing in this Act, or an amendment made by this*  
25       *Act, shall be construed to—*

1           (1) *alter the jurisdiction between the Secretary of*  
2 *Agriculture and the Secretary of Health and Human*  
3 *Services, under applicable statutes, regulations, or*  
4 *agreements regarding voluntary inspection of non-*  
5 *amenable species under the Agricultural Marketing*  
6 *Act of 1946 (7 U.S.C. 1621 et seq.);*

7           (2) *alter the jurisdiction between the Alcohol and*  
8 *Tobacco Tax and Trade Bureau and the Secretary of*  
9 *Health and Human Services, under applicable stat-*  
10 *utes and regulations;*

11           (3) *limit the authority of the Secretary of Health*  
12 *and Human Services under—*

13                   (A) *the Federal Food, Drug, and Cosmetic*  
14 *Act (21 U.S.C. 301 et seq.) as in effect on the*  
15 *day before the date of enactment of this Act; or*

16                   (B) *the Public Health Service Act (42*  
17 *U.S.C. 301 et seq.) as in effect on the day before*  
18 *the date of enactment of this Act;*

19           (4) *alter or limit the authority of the Secretary*  
20 *of Agriculture under the laws administered by such*  
21 *Secretary, including—*

22                   (A) *the Federal Meat Inspection Act (21*  
23 *U.S.C. 601 et seq.);*

24                   (B) *the Poultry Products Inspection Act (21*  
25 *U.S.C. 451 et seq.);*



1 *agreement establishing the World Trade Organization or*  
2 *any other treaty or international agreement to which the*  
3 *United States is a party.*

4 **SEC. 6405. DETERMINATION OF BUDGETARY EFFECTS.**

5 *The budgetary effects of this Act, for the purpose of*  
6 *complying with the Statutory Pay-As-You-Go Act of 2010,*  
7 *shall be determined by reference to the latest statement titled*  
8 *“Budgetary Effects of PAYGO Legislation” for this Act,*  
9 *jointly submitted for printing in the Congressional Record*  
10 *by the Chairmen of the House and Senate Budget Commit-*  
11 *tees, provided that such statement has been submitted prior*  
12 *to the vote on passage in the House acting first on this con-*  
13 *ference report or amendment between the Houses.*

Attest:

*Clerk.*



11<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H.R. 3082**

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**HOUSE AMENDMENT TO  
SENATE AMENDMENT**