111TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { 111–675

PROVIDING FOR CONSIDERATION OF THE SENATE AMENDMENT TO THE BILL (H.R. 3082) 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

DECEMBER 8, 2010.—Referred to the House Calendar and ordered to be printed

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Mr. MCGOVERN, from the Committee on Rules, submitted the following

R E P O R T

[To accompany H. Res. 1755]

The Committee on Rules, having had under consideration House Resolution 1755, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for the consideration of the Senate amendment to H.R. 3082, the Military Construction and Veterans Affairs Appropriations Act, 2010 (Full-Year FY11 CR and Food Safety). The resolution makes in order a motion offered by the chair of the Committee on Appropriations that the House concur in the Senate amendment to H.R. 3082 with the amendment printed in this report. The resolution provides one hour of debate on the motion, with 40 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations and 20 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. The resolution waives all points of order against consideration of the motion. The resolution provides that the Senate amendment and the motion shall be considered as read.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the motion includes a waiver of clause 10 of rule XXI (prohibiting consideration of any bill, joint resolution, amendment, or conference report if the provisions of such measure affecting direct spending and revenues have the net effect of increasing the deficit or reducing the surplus).

99–008

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 508

Date: December 8, 2010.
Measure: Senate amendment to H.R. 3082.
Motion by: Mr. Dreier.
Summary of motion: To allow Mr. Lewis of California to offer a substitute amendment to the motion by the chair of the Appropriations Committee that the House concur in the Senate Amendment to H.R. 3082 with an amendment.
Results: Defeated 2–7.
Vote by Members: McGovern—Nay; Hastings (FL)—Nay; Matsui—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 509

Date: December 8, 2010.
Measure: Senate amendment to H.R. 3082.
Motion by: Mr. Dreier.
Summary of motion: To allow Mr. Kagen of Wisconsin to offer an amendment to the motion by the chair of the Appropriations Committee that the House concur in the Senate Amendment to H.R. 3082 with an amendment.
Results: Defeated 3–6.
Vote by Members: McGovern—Nay; Hastings (FL)—Nay; Matsui—Nay; Perlmutter—Yea; Pingree—Nay; Polis—Nay; Dreier—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 510

Date: December 8, 2010.
Measure: Senate amendment to H.R. 3082.
Motion by: Mr. Sessions.
Summary of motion: To allow Mr. Barton of Texas to offer a substitute amendment to the motion by the chair of the Appropriations Committee that the House concur in the Senate Amendment to H.R. 3082 with an amendment.
Results: Defeated 2–7.
Vote by Members: McGovern—Nay; Hastings (FL)—Nay; Matsui—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Sessions—Yea; Slaughter—Nay.

Rules Committee record vote No. 511

Date: December 8, 2010.
Measure: Senate amendment to H.R. 3082.
Motion by: Mr. Sessions.
Summary of motion: To divide the question on adoption of the motion between the Continuing Resolution and the FDA Food Safety Modernization Act.
Results: Defeated 2–7.

Vote by Members: McGovern—Nay; Hastings (FL)—Nay; Matsui—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Sessions—Yea; Slaughter—Nay.

SUMMARY OF HOUSE AMENDMENT

The House amendment freezes FY 2011 discretionary appropriations at the FY 2010 level; providing $45.9 billion less than the President requested for the year. Within that ceiling, the resolution adjusts funding between programs and accounts to deal with current demands and workloads and avoid furloughs. Overall, the resolution includes $513 billion for the Department of Defense, $4.9 billion above 2010; $75.2 billion for military construction and veterans, $1.4 billion below 2010; and $501.4 billion for all other appropriations, $3.5 billion below 2010. It also includes $159 billion for the war, as the President requested; prohibits funding for Congressional earmarks; freezes non-military Federal pay for two years, as requested by the President; and allows feefunded programs to continue to be financed from fees.

The FDA Food Safety and Modernization Act grants the Food and Drug Administration authorities it needs to better oversee the safety of the nation's food supply. The bill includes expanded authority for FDA to inspect records relating to food, and requires FDA to increase inspections of high-risk food facilities. In addition, it provides for the creation of a more accurate registry of all food facilities serving American consumers, improved traceability of the history of food in the event of a foodborne illness outbreak, certification of certain foreign food imports as meeting all U.S. food safety requirements, and protection for whistleblowers that bring attention to important food safety information.

TEXT OF HOUSE AMENDMENT

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Full-Year Continuing Appropriations Act, 2011".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

SEC. 3. REFERENCES.

Except as expressly provided otherwise, any reference to "this Act" contained in any division of this Act shall be treated as referring only to the provisions of that division.

DIVISION A—FULL-YEAR CONTINUING APPROPRIATIONS

The following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2011, and for other purposes, namely:

TITLE I—GENERAL PROVISIONS

SEC. 1101. (a) Such amounts as may be necessary, at the level specified in subsection (c) and under the authority and conditions provided in applicable appropriations Acts for fiscal year 2010, for projects or activities (including the costs of direct loans and loan guarantees) that are not otherwise specifically provided for, and for which appropriations, funds, or other authority were made available in the following appropriations Acts:

(1) The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (Public Law 111–80).

(2) Division A of the Department of Defense Appropriations Act, 2010 (division A of Public Law 111–118).

(3) The Energy and Water Development and Related Agencies Appropriations Act, 2010 (Public Law 111–85).

(4) The Department of Homeland Security Appropriations Act, 2010 (Public Law 111–83) and section 601 of the Supplemental Appropriations Act, 2010 (Public Law 111–212).

(5) The Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010 (division A of Public Law 111–88).

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

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

(8) Chapter 3 of title I of the Supplemental Appropriations Act, 2010 (Public Law 111–212), except for appropriations under the heading "Operation and Maintenance" relating to Haiti following the earthquake of January 12, 2010, or the Port of Guam: *Provided,* That the amount provided for the Department of Defense pursuant to this paragraph shall not exceed $29,387,401,000: *Provided further,* That the Secretary of Defense shall allocate such amount to each appropriation account, budget activity, activity group, and subactivity group, and to each program, project, and activity within each appropriation account, in the same proportions as such appropriations for fiscal year 2010.

(b) For purposes of this Act, the term "level" means an amount.

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

(1) such level shall not include any amount previously designated (other than amounts in section 1101(a)(8)) as an emergency requirement and necessary to meet emergency needs

pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010; and

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

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

SEC. 1103. Appropriations provided by this Act that, in the applicable appropriations Act for fiscal year 2010, carried a multiple-year or no-year period of availability shall retain a comparable period of availability.

SEC. 1104. Except as otherwise expressly provided in this Act, the requirements, authorities, conditions, limitations, and other provisions of the appropriations Acts referred to in section 1101(a) shall continue in effect through the date specified in section 1106.

SEC. 1105. No appropriation or funds made available or authority granted pursuant to section 1101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were specifically prohibited during fiscal year 2010.

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

SEC. 1107. Expenditures made pursuant to the Continuing Appropriations Act, 2011 (Public Law 111–242), shall be charged to the applicable appropriation, fund, or authorization provided by this Act.

SEC. 1108. Funds appropriated by this Act may be obligated and expended notwithstanding section 10 of Public Law 91–672 (22 U.S.C. 2412), section 15 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2680), section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 6212), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SEC. 1109. (a) With respect to any discretionary account for which advance appropriations were provided for fiscal year 2011 or 2012 in an appropriations Act for fiscal year 2010, in addition to amounts otherwise made available by this Act, advance appropriations are provided in the same amount for fiscal year 2012 or 2013, respectively, with a comparable period of availability.

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

(1) "Department of Veterans Affairs, Medical Services", $2,513,985,000, which shall become available on October 1, 2011, and shall remain available until September 30, 2012.

(2) "Department of Veterans Affairs, Medical Support and Compliance", $228,000,000, which shall become available on October 1, 2011, and shall remain available until September 30, 2012.

(c) Notwithstanding subsection (a), amounts are provided for "Department of Veterans Affairs, Medical Facilities" in the amount of $5,426,000,000, which shall become available on October 1, 2011, and shall remain available until September 30, 2012.

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

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

(1) "Department of Labor, Employment Standards Administration, Special Benefits for Disabled Coal Miners", for benefit payments under title IV of the Federal Mine Safety and Health Act of 1977, $41,000,000, to remain available until expended.

(2) "Department of Health and Human Services, Centers for Medicare and Medicaid Services, Grants to States for Medicaid", for payments to States or in the case of section 1928 on behalf of States under title XIX of the Social Security Act, $86,445,289,000, to remain available until expended.

(3) "Department of Health and Human Services, Administration for Children and Families, Payments to States for Child Support Enforcement and Family Support Programs", for payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), $1,200,000,000, to remain available until expended.

(4) "Department of Health and Human Services, Administration for Children and Families, Payments to States for Foster Care and Permanency", for payments to States or other non-Federal entities under title IV–E of the Social Security Act, $1,850,000,000.

(5) "Social Security Administration, Supplemental Security Income Program", for benefit payments under title XVI of the Social Security Act, $13,400,000,000, to remain available until expended.

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

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

(2) Amounts made available pursuant to paragraph (8) of section 1101(a) of this Act.

SEC. 1112. Any language specifying an earmark in an appropriations Act for fiscal year 2010, or in a committee report or joint explanatory statement accompanying such an Act, shall have no legal effect with respect to funds appropriated by this Act. For purposes of this section, the term "earmark" means a congressional earmark or congressionally directed spending item, as defined in clause 9(e) of rule XXI of the Rules of the House of Representatives and paragraph 5(a) of rule XLIV of the Standing Rules of the Senate.

SEC. 1113. (a) Notwithstanding section 1101, user fees for "Securities and Exchange Commission, Salaries and Expenses" shall be available for obligation in the amount of $1,250,000,000: *Provided*, That the authority provided in this subsection shall be deemed a

regular appropriation for purposes of section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) and sections 13(e), 14(g), and 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e), 78n(g), and 78ee).

(b) Notwithstanding section 1101, the Federal Communications Commission is authorized to assess and collect pursuant to section 9 of title I of the Communications Act of 1934 offsetting collections during fiscal year 2011 of $350,634,000, and such amounts shall be available for obligation until expended, of which not less than $8,279,115 shall be for the salaries and expenses of the Office of Inspector General.

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

(1) the term "employee"—

(A) means an employee as defined in section 2105 of title 5, United States Code; and

(B) includes an individual to whom subsection (b), (c), or (f) of such section 2105 pertains (whether or not such individual satisfies subparagraph (A));

(2) the term "senior executive" means—

(A) a member of the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code;

(B) a member of the FBI–DEA Senior Executive Service under subchapter III of chapter 31 of title 5, United States Code;

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

(D) a member of any similar senior executive service in an Executive agency;

(3) the term "senior-level employee" means an employee who holds a position in an Executive agency and who is covered by section 5376 of title 5, United States Code, or any similar authority; and

(4) the term "Executive agency" has the meaning given such term by section 105 of title 5, United States Code.

(b)(1) Notwithstanding any other provision of law, except as provided in subsection (e), no statutory pay adjustment which (but for this subsection) would otherwise take effect during the period beginning on January 1, 2011, and ending on December 31, 2012, shall be made.

(2) For purposes of this subsection, the term "statutory pay adjustment" means—

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

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

(c) Notwithstanding any other provision of law, except as provided in subsection (e), during the period beginning on January 1, 2011, and ending on December 31, 2012, no senior executive or senior-level employee may receive an increase in his or her rate of basic pay absent a change of position that results in a substantial increase in responsibility, or a promotion.

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

(e) The Non-Foreign Area Retirement Equity Assurance Act of 2009 (5 U.S.C. 5304 note) shall be applied using the appropriate locality-based comparability payments established by the President as the applicable comparability payments in section 1914(2) and (3) of such Act.

SEC. 1115. (a) Amounts made available by this Act shall be available for transfer by the head of the agency to the extent necessary to avoid furloughs or reductions in force, or to provide funding necessary for programs and activities required by law: *Provided*, That such transfers may not result in the termination of programs, projects or activities: *Provided further*, That such transfers shall be subject to the approval of the House and Senate Appropriations Committees.

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

SEC. 1116. None of the funds made available in this or any prior Act may be used to transfer, release, or assist in the transfer or release to or within the United States, its territories, or possessions Khalid Sheikh Mohammed or any other detainee who—

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

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

SEC. 1117. None of the funds appropriated or otherwise made available by this Act may be obligated by any covered executive agency in contravention of the certification requirement of section 6(b) of the Iran Sanctions Act of 1996, as included in the revisions to the Federal Acquisition Regulation pursuant to such section.

TITLE II—ADJUSTMENTS IN FUNDING AND OTHER PROVISIONS

CHAPTER 1—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

SEC. 2101. Notwithstanding section 1101, the level for each of the following accounts shall be as follows: "Agricultural Programs, Agricultural Research Service, Buildings and Facilities," $0; "Agricultural Programs, Agricultural Marketing Service, Marketing Services", $126,148,000; "Agricultural Programs, Grain Inspection, Packers and Stockyards Administration, Limitation on Inspection and Weighing Services Expenses", $50,000,000; "Conservation Programs, Natural Resources Conservation Service, Watershed and Flood Prevention Operations", $0; "Rural Development Programs, Rural Housing Service, Rental Assistance Program", $971,593,000; "Domestic Food Programs, Food and Nutrition Service, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)", $6,773,372,000; "Domestic Food Programs, Food and Nutrition Service, Nutrition Programs Administration", $150,801,000; "Foreign Assistance and Related Programs, Foreign Agricultural Service, Salaries and Expenses", $187,801,000; and "Related Agencies and Food and Drug Administration, Independent Agencies, Farm Credit Administration, Limitation on Administrative Expenses", $59,400,000.

SEC. 2102. Notwithstanding section 1101, the level for "Agricultural Programs, Agriculture Buildings and Facilities and Rental Payments" shall be $260,051,000, of which $178,470,000 shall be available for payments to the General Services Administration for rent; of which $13,800,000 shall be for payment to the Department of Homeland Security for building security activities; and of which $67,781,000 shall be for buildings operations and maintenance expenses.

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

SEC. 2104. The amounts included under the heading "Agricultural Programs, National Institute of Food and Agriculture, Extension Activities" in Public Law 111–80 shall be applied to funds appropriated by this division as follows: by substituting "$306,227,000" for "$297,500,000"; by substituting "$43,838,000" for "$42,677,000"; by substituting "$69,131,000" for "$68,070,000"; by substituting "$3,755,000" for "$3,045,000"; by substituting "$19,886,000" for "$19,770,000"; by substituting "$4,377,000" for "$4,321,000"; and by substituting "$8,565,000" for "$20,396,000".

SEC. 2105. The amounts included under the heading "Agricultural Programs, Animal and Plant Health Inspection Services, Salaries and Expenses" in Public Law 111–80 shall be applied to funds appropriated by this division by substituting "$45,219,000" for "$60,243,000".

SEC. 2106. In addition to amounts otherwise appropriated or made available by this Act, $31,875,000 is appropriated to the Secretary of Agriculture for the costs of loan and loan guarantees under the heading "Agricultural Programs, Farm Service Agency, Agricultural Credit Insurance Fund Program Account" to ensure that the fiscal year 2010 program levels for such loan and loan guarantee programs are maintained for fiscal year 2011. Funds appropriated by this Act to such heading for farm ownership, operating and conservation direct loans and guaranteed loans may be transferred among these programs. The Secretary of Agriculture shall notify the Committees on Appropriations of the House of Representatives and Senate at least 15 days in advance of any transfer.

SEC. 2107. Notwithstanding section 1101, the level for each of the following accounts under the heading "Rural Development Programs" shall be as follows: "Rural Housing Service, Rural Housing Insurance Fund Program Account", $582,409,000; "Rural Housing Service, Farm Labor Program Account", $20,358,000; "Rural Housing Service, Rural Community Facilities Program Account", $56,579,000; "Rural Business-Cooperative Service, Rural Develop-

ment Loan Fund Program Account", $17,879,000; "Rural Utilities Service, Rural Water and Waste Disposal Program Account", $579,361,000; "Rural Utilities Service, Rural Electrification and Telecommunications Loans Program Account", $40,659,000; and "Rural Utilities Service, Distance Learning, Telemedicine, and Broadband Program", $78,051,000: *Provided*, That these funds are appropriated to the Secretary of Agriculture to ensure that the fiscal year 2010 program levels for such loan and loan guarantee programs are maintained for fiscal year 2011: *Provided further*, That the amount provided in this Act for grants and administrative expenses under these accounts shall remain unchanged from fiscal year 2010.

SEC. 2108. Notwithstanding section 1101, the level for "Domestic Food Programs, Food and Nutrition Service, Child Nutrition Programs" shall be $17,319,981,000, to remain available through September 30, 2012, for necessary expenses to carry out the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21; of which such sums as are made available under section 14222(b)(1) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246), as amended by this Act, shall be merged with and available for the same time period and purposes as provided herein: *Provided*, That of the total amount available, $5,000,000 shall be available to be awarded as competitive grants to implement section 4405 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246), and may be awarded notwithstanding the limitations imposed by sections 4405(b)(1)(A) and 4405(c)(1)(A): *Provided further*, That section 14222(b)(1) of the Food, Conservation, and Energy Act of 2008 is amended by adding at the end before the period, "except section 21, and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except sections 17 and 21".

SEC. 2109. Notwithstanding section 1101, the level for "Domestic Food Programs, Food and Nutrition Service, Commodity Assistance Program", shall be $253,358,000, of which $176,788,000 shall be for the Commodity Supplemental Food Program.

SEC. 2110. Notwithstanding section 1101, the level for "Related Agencies and Food and Drug Administration, Food and Drug Administration, Salaries and Expenses" shall be $3,707,611,000: *Provided*, That of the amount provided under this heading, $667,057,000 shall be derived from prescription drug user fees authorized by section 736 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h), shall be credited to this account and remain available until expended, and shall not include any fees pursuant to paragraphs (2) and (3) of section 736(a) of such Act (21 U.S.C. 379h(a)(2) and (a)(3)) assessed for fiscal year 2012 but collected in fiscal year 2011; $61,860,000 shall be derived from medical device user fees authorized by section 738 of such Act (21 U.S.C. 379j), and shall be credited to this account and remain available until expended; $19,448,000 shall be derived from animal drug user fees authorized by section 740 of such Act (21 U.S.C. 379j-12), and shall be credited to this account and remain available until expended; $5,397,000 shall be derived from animal generic drug user fees authorized by section 741 of such Act (21 U.S.C. 379j-21), and shall be credited to this account and shall remain available until ex-

pended; and $450,000,000 shall be derived from tobacco product user fees authorized by section 919 of such Act (21 U.S.C. 387s) and shall be credited to this account and remain available until expended: *Provided further*, That in addition and notwithstanding any other provision under this heading, amounts collected for prescription drug user fees that exceed the fiscal year 2011 limitation are appropriated and shall be credited to this account and remain available until expended: *Provided further*, That fees derived from prescription drug, medical device, animal drug, animal generic drug, and tobacco product assessments for fiscal year 2011 received during fiscal year 2011, including any such fees assessed prior to fiscal year 2011 but credited for fiscal year 2011, shall be subject to the fiscal year 2011 limitations: *Provided further,* That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further*, That of the total amount appropriated under this heading: (1) $856,383,000 shall be for the Center for Food Safety and Applied Nutrition and related field activities in the Office of Regulatory Affairs; (2) $963,311,000 shall be for the Center for Drug Evaluation and Research and related field activities in the Office of Regulatory Affairs; (3) $328,234,000 shall be for the Center for Biologics Evaluation and Research and for related field activities in the Office of Regulatory Affairs; (4) $162,946,000 shall be for the Center for Veterinary Medicine and for related field activities in the Office of Regulatory Affairs; (5) $362,491,000 shall be for the Center for Devices and Radiological Health and for related field activities in the Office of Regulatory Affairs; (6) $60,975,000 shall be for the National Center for Toxicological Research; (7) $421,463,000 shall be for the Center for Tobacco Products and for related field activities in the Office of Regulatory Affairs; (8) not to exceed $141,724,000 shall be for Rent and Related activities, of which $41,951,000 is for White Oak Consolidation, other than the amounts paid to the General Services Administration for rent; (9) not to exceed $185,983,000 shall be for payments to the General Services Administration for rent; and (10) $224,101,000 shall be for other activities, including the Office of the Commissioner of Food and Drugs; the Office of Foods; the Office of the Chief Scientist; the Office of Policy, Planning and Budget; the Office of International Programs; the Office of Administration; and central services for these offices: *Provided further,* That none of the funds made available under this heading shall be used to transfer funds under section 770(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379dd): *Provided further*, That not to exceed $25,000 of the amount provided under this heading shall be for official reception and representation expenses, not otherwise provided for, as determined by the Commissioner: *Provided further,* That funds may be transferred from one specified activity to another with the prior approval of the Committees on Appropriations of both Houses of Congress.

SEC. 2111. Notwithstanding any other provision of this Act, the following set-asides included in Public Law 111–80 for "Congressionally Designated Projects" in the following accounts for the corresponding amounts shall not apply to funds appropriated by this Act:

(1) "Agricultural Programs, Agricultural Research Service, Salaries and Expenses", $44,138,000.

(2) "Agricultural Programs, National Institute of Food and Agriculture, Research and Education Activities", $120,054,000.

(3) "Agricultural Programs, National Institute of Food and Agriculture, Extension Activities", $11,831,000.

(4) "Agricultural Programs, Animal and Plant Health Inspection Service, Salaries and Expenses", $24,410,000.

(5) "Conservation Programs, Natural Resources Conservation Service, Conservation Operations", $37,382,000.

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

(1) The first proviso under the heading "Agricultural Programs, Agriculture Buildings and Facilities and Rental Payments".

(2) The second proviso under the heading "Conservation Programs, Natural Resources Conservation Service, Conservation Operations".

(3) The set-aside of $2,800,000 under the heading "Rural Development Programs, Rural Business—Cooperative Service, Rural Cooperative Development Grants".

(4) The second proviso under the heading "Rural Development Programs, Rural Utilities Service, Rural Water and Waste Disposal Account".

(5) The first proviso under the heading "Domestic Food Programs, Food and Nutrition Service, Commodity Assistance Program".

(6) The first proviso under the heading "Foreign Assistance and Related Programs, Foreign Agricultural Service, McGovern-Dole International Food for Education and Child Nutrition Program Grants".

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

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

SEC. 2115. The following sections of title VII of Public Law 111–80 that authorized or required certain actions have been performed before the date of the enactment of this division and need not reoccur: section 737, section 740, section 747, and section 749.

SEC. 2116. Appropriations to the Department of Agriculture made available in fiscal year 2005 to carry out section 601 of the Rural Electrification Act of 1936 (7 U.S.C. 950bb) for the cost of direct loans shall remain available until expended to disburse valid obligations made in fiscal years 2005 and 2006.

SEC. 2117. In the case of each program established or amended by the Food, Conservation, and Energy Act of 2008 (Public Law 110–246), other than by title I or subtitle A of title III of such Act, or programs for which indefinite amounts were provided in that Act that is authorized or required to be carried out using funds of the Commodity Credit Corporation (1) such funds shall be available for salaries and related administrative expenses, including technical assistance, associated with the implementation of the program, without regard to the limitation on the total amount of allot-

ments and fund transfers contained in section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i); and (2) the use of such funds for such purpose shall not be considered to be a fund transfer or allotment for purposes of applying the limitation on the total amount of allotments and fund transfers contained in such section.

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

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

SEC. 2120. In paragraph (1) of section 721 of Public Law 111–80, strike "$1,180,000,000" and insert "$1,318,000,000".

SEC. 2121. The following provisions of Public Law 111–80 shall be applied to funds appropriated by this division by substituting "2010", "2011" and "2012" for the terms "2009", "2010", and "2011", respectively, in each instance that such terms appear:

(1) The second paragraph under the heading "Agricultural Programs, Animal and Plant Health Inspection Service, Salaries and Expenses".

(2) The second proviso under the heading "Agricultural Programs, Food Safety and Inspection Service".

(3) The first proviso in the second paragraph under the heading "Rural Development Programs, Rural Housing Service, Rural Housing Insurance Fund Program Account".

(4) The fifth proviso under the heading "Rural Development Programs, Rural Housing Service, Rental Assistance Program".

(5) The proviso under the heading "Rural Development Programs, Rural Housing Service, Mutual and Self-Help Housing Grants".

(6) The first proviso under the heading "Rural Development Programs, Rural Housing Service, Rural Housing Assistance Grants".

(7) The seventh proviso under the heading "Rural Development Programs, Rural Housing Service, Rural Community Facilities Program Account".

(8) The third proviso under the heading "Rural Development Programs, Rural Business—Cooperative Service, Rural Business Program Account".

(9) The four availability of funds clauses under the heading "Rural Development Programs, Rural Business—Cooperative Service, Rural Development Loan Fund Program Account".

(10) The fifth proviso under the heading "Rural Development Programs, Rural Utilities Service, Rural Water and Waste Disposal Program Account".

(11) Sections 713, 717, and 746.

SEC. 2122. Notwithstanding section 1101, the level for "Commodity Futures Trading Commission" shall be $261,000,000, to remain available until September 30, 2012.

SEC. 2123. The proviso under the heading "Commodity Futures Trading Commission" in Public Law 111–80 shall not apply to funds appropriated by this Act.

CHAPTER 2—COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES

SEC. 2201. Notwithstanding section 1101, the level for each of the following accounts shall be as follows: "Department of Commerce, Bureau of the Census, Periodic Censuses and Programs", $964,315,000; "Department of Commerce, National Telecommunications and Information Administration, Salaries and Expenses", $40,649,000; "Department of Commerce, National Institute of Standards and Technology, Construction of Research Facilities", $124,800,000; "Department of Commerce, National Oceanic and Atmospheric Administration, Procurement, Acquisition and Construction", $1,772,353,000; "Department of Justice, General Administration, Detention Trustee", $1,533,863,000; "Department of Justice, Legal Activities, Salaries and Expenses, United States Attorneys", $1,944,610,000; "Department of Justice, Federal Bureau of Investigation, Salaries and Expenses", $7,703,387,000; "Department of Justice, Federal Bureau of Investigation, Construction", $107,310,000; "Department of Justice, Drug Enforcement Administration, Salaries and Expenses", $2,030,488,000; "Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, Salaries and Expenses", $1,126,587,000; "Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives, Construction", $0; "Department of Justice, Federal Prison System, Salaries and Expenses", $6,472,726,000; and "Department of Justice, Federal Prison System, Buildings and Facilities", $194,155,000.

SEC. 2202. Notwithstanding section 1101, the level for "Department of Commerce, United States Patent and Trademark Office, Salaries and Expenses" shall be $2,262,000,000, to remain available until expended: *Provided*, That the sum herein appropriated from the general fund shall be reduced as offsetting collections assessed and collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376 are received during fiscal year 2011, so as to result in a fiscal year 2011 appropriation from the general fund estimated at $0: *Provided further*, That during fiscal year 2011, should the total amount of offsetting fee collections, and the surcharge provided herein, be less than $2,262,000,000, this amount shall be reduced accordingly: *Provided further*, That any amount received in excess of $2,262,000,000 in fiscal year 2011, in an amount up to $200,000,000, shall remain available until expended: *Provided further*, That there shall be a surcharge of 15 percent, rounded by standard arithmetic rules, on fees charged or authorized by subsections (a), (b), and (d)(1) of section 41 of title 35, United States Code, as administered under Public Law 108–447 and this Act, and on fees charged or authorized by section 132(b) of title 35, United States Code: *Provided further*, That the surcharge established under the previous proviso shall be separate from, and in addition to, any other surcharge that may be required pursuant to any provision of title 35, United States Code: *Provided further*, That the surcharge established in the previous 2 provisions shall take effect on the date that is 10 days after the date of enactment of this Act, and shall remain in effect during fiscal year 2011: *Provided further*,

That the receipts collected as a result of these surcharges shall be available, within the amounts provided herein, to the United States Patent and Trademark Office without fiscal year limitation, for all authorized activities and operations of the Office: *Provided further*, That within the amounts appropriated, $1,000,000 shall be transferred to "Department of Commerce, Departmental Management, Office of Inspector General" for activities associated with carrying out investigations and audits related to the United States Patent and Trademark Office.

SEC. 2203. Notwithstanding section 1101, the level for "Department of Justice, Community Oriented Policing Services" shall be $597,500,000: *Provided*, That the amounts included under that heading in division B of Public Law 111–117 shall be applied in the same manner to funds appropriated by this Act, except that "$15,000,000" shall be substituted for "$40,385,000", "$0" shall be substituted for "$25,385,000", "$1,500,000" shall be substituted for "$170,223,000", and "$0" shall be substituted for "$168,723,000".

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

SEC. 2205. Notwithstanding section 1101, the level for "Department of Justice, Office of Justice Programs, Juvenile Justice Programs" shall be $332,500,000: *Provided*, That the amounts included under that heading in division B of Public Law 111–117 shall be applied in the same manner to funds appropriated by this Act, except that "$0" shall be substituted for "$91,095,000".

SEC. 2206. Notwithstanding section 1101, the level for the following accounts of the National Aeronautics and Space Administration shall be as follows: "Science", $5,005,600,000; "Exploration", $3,706,000,000; "Space Operations", $5,247,900,000; "Aeronautics", $1,138,600,000; "Education", $180,000,000; "Cross Agency Support", $3,085,700,000; "Construction and Environmental Compliance and Remediation", $528,700,000, of which $20,000,000 shall be derived from available unobligated balances previously appropriated for construction of facilities; and "Office of Inspector General", $37,500,000: *Provided*, That within the funds provided for "Space Operations", not less than $989,100,000 shall be for Space Shuttle operations, production, research, development, and support, $2,745,000,000 shall be for International Space Station operations, production, research, development, and support, $688,800,000 shall be for Space and Flight Support, and $825,000,000 shall be for additional Space Shuttle costs, launch complex development only for activities at the Kennedy Space Center related to the civil, nondefense launch complex, use at other National Aeronautics and Space Administration flight facilities that are currently scheduled to launch cargo to the International Space Station, and development of ground operations for the heavy lift launch vehicle and the Orion multipurpose crew vehicle: *Provided further*, That within the funds provided for "Aeronautics", $579,600,000 shall be for aeronautics research and development activities, and $559,000,000 shall be for space technology activities proposed for "Aeronautics"

and exploration technology and demonstration program activities proposed for "Exploration" in the National Aeronautics and Space Administration congressional justification that accompanied the President's Fiscal Year 2011 budget: *Provided further*, That within the funds provided for "Exploration", not less than $1,200,000,000 shall be for the Orion multipurpose crew vehicle, not less than $250,000,000 shall be for commercial crew, not less than $300,000,000 shall be for commercial cargo development, and not less than $1,800,000,000 shall be for the heavy lift launch vehicle system: *Provided further*, That the initial lift capability for the heavy lift launch vehicle system shall be not less than 130 tons and that the upper stage and other core elements shall be simultaneously developed: *Provided further*, That the provisos limiting the use of funds under the heading "National Aeronautics and Space Administration, Exploration" in division B of Public Law 111–117 shall not apply to funds appropriated by this Act: *Provided further*, That within the funds provided for ″Construction and Environmental Compliance and Remediation″, $40,500,000 shall be available to support science research and development activities; $109,800,000 shall be available to support exploration research and development activities; $15,600,000 shall be available to support space operations research and development activities; $300,700,000 shall be available for institutional construction of facilities; and $62,100,00 shall be available for environmental compliance and remediation: *Provided further*, That of funds provided under the headings "Space Operations" and "Exploration" in this Act, up to $60,000,000 may be transferred to "Department of Commerce, Economic Development Administration, Economic Development Assistance Programs" to spur regional economic growth in areas impacted by Shuttle retirement and Exploration programmatic changes: *Provided further*, That following the retirement of the space shuttle orbiters, the National Aeronautics and Space Administration shall bear any costs that normally would be associated with surplusing the orbiters, including taking hazardous orbiter systems offline, and any shuttle recipient other than the Smithsonian Institution shall bear costs for transportation and for preparing the surplused orbiter for display: *Provided further*, That should the Administrator determine that the Smithsonian Institution is an appropriate venue for an orbiter, such orbiter shall be made available to the Smithsonian at no or nominal cost: *Provided further*, That any funds received by the National Aeronautics and Space Administration as a result of the disposition of any orbiter shall be available only as provided in subsequent appropriations Acts: *Provided further*, That funds made available for "Space Operations" in excess of those specified for Space Shuttle, International Space Station, and Space and Flight support may be transferred to "Construction and Environmental Compliance and Remediation" for construction activities only at National Aeronautics and Space Administration owned facilities: *Provided further*, That funds so transferred shall not be subject to section 505(a)(1) of division B of Public Law 111–117 or to the transfer limitations for the National Aeronautics and Space Administration described in the Administrative Provisions of that Act, and shall be available until September 30, 2015, only after notification of such transfers to the House and Senate Committees on Appropriations.

SEC. 2207. Of the funds made available for "Department of Commerce, Bureau of the Census, Periodic Censuses and Programs" in division B of Public Law 111–117, $1,740,000,000 is rescinded.

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

SEC. 2209. The Departments of Commerce and Justice, the National Aeronautics and Space Administration, and the National Science Foundation are directed to submit spending plans, signed by the respective department or agency head, to the House and Senate Committees on Appropriations within 60 days of enactment of this Act.

SEC. 2210. None of the funds provided to the Department of Justice in this or any prior Act shall be available for the acquisition of any facility that is to be used wholly or in part for the incarceration or detention of any individual detained at Naval Station, Guantanamo Bay, Cuba, as of June 24, 2009.

SEC. 2211. Notwithstanding any other provision of this Act, the following set-asides included in division B of Public Law 111–117 for projects specified in the explanatory statement accompanying that Act in the following accounts for the corresponding amounts shall not apply to funds appropriated by this Act: (1) "Department of Commerce, International Trade Administration, Operations and Administration", $5,215,000; (2) "Department of Commerce, Minority Business Development Agency, Minority Business Development", $1,100,000; (3) "Department of Commerce, National Institute of Standards and Technology, Scientific and Technical Research and Services", $10,500,000; (4) "Department of Commerce, National Institute of Standards and Technology, Construction of Research Facilities", $47,000,000; (5) "Department of Commerce, National Oceanic and Atmospheric Administration, Operations, Research and Facilities", $99,295,000; (6) "Department of Commerce, National Oceanic and Atmospheric Administration, Procurement, Acquisition and Construction", $18,000,000; and (7) "National Aeronautics and Space Administration, Cross Agency Support", $63,000,000.

SEC. 2212. Of the unobligated balances available to "Department of Justice, Legal Activities, Assets Forfeiture Fund", $500,000,000 is hereby rescinded.

CHAPTER 3—DEFENSE

SEC. 2301. Notwithstanding section 1101 of this Act, the level for the "Defense Health Program" shall be $32,097,203,000; of which $30,952,369,000 shall be for operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2012, and of which up to $16,212,121,000 may be available for contracts entered into under the TRICARE program; of which $519,921,000, to remain available for obligation until September 30, 2013, shall be for procurement; and of which $624,913,000, to remain available for obligation until September 30, 2012, shall be for research, development, test and evaluation.

SEC. 2302. Amounts provided by section 1101 of this Act for "Defense Health Program, Department of Defense" shall be available: (1) for the purposes provided under section 1704 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84), (2) for transfer to the Joint Department of Defense-Department

of Veterans Affairs Medical Facility Demonstration Fund under such section 1704, and (3) for operations of the integrated Captain James A. Lovell Federal Health Care Center, consisting of the North Chicago Veterans Affairs Medical Center, and Navy Ambulatory Care Center, and supporting facilities designated as a combined federal medical facility as described by section 706 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417).

SEC. 2303. (a) The authority provided by section 1202 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163), as amended by section 1222 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2518), and the authority provided by section 1222(e) of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84), shall continue in effect through the date specified in section 1106 of this Act.

(b) Notwithstanding section 1101 of this Act, the level available for the "Commander's Emergency Response Program" shall be $500,000,000: *Provided*, That projects (including ancillary or related elements in connection with each project) executed under this authority shall not exceed $20,000,000: *Provided further*, That the Secretary of Defense shall notify the congressional defense committees in writing of any project with a total anticipated cost for completion of $5,000,000 not less than 15 days prior to obligating funds.

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

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

SEC. 2306. Notwithstanding any other provision of law, of the amount provided to the Department of Defense by section 1101 of this Act for "Operation and Maintenance", up to $75,000,000 may be obligated and expended for purposes of building the capacity of Yemeni Ministry of Interior forces to conduct counterterrorism operations, subject to the direction and control of the Secretary of Defense, with the concurrence of the Secretary of State: *Provided*, That the Secretary of Defense shall, not fewer than 15 days prior to providing assistance under this section, submit to the congressional defense committees a notice setting forth the assistance to be provided, including the types of such assistance, the budget for such assistance, and the completion date for the provision of such assistance.

SEC. 2307. All funds provided by section 1101 of this Act for the "Joint Improvised Explosive Device Defeat Fund" may be used for staff and infrastructure costs.

SEC. 2308. The authority provided by section 1014 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417), shall continue in effect through the earlier

of the date of enactment of the National Defense Authorization Act for Fiscal Year 2011 or December 31, 2011.

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

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

(2) in clause (ii)—

(A) by striking "February 1, 2011" and inserting "February 1, 2012"; and

(B) by striking "October 1, 2010" and inserting "December 31, 2011".

SEC. 2310. There is hereby established in the Treasury of the United States the "Afghanistan Infrastructure Fund". Of the funds made available in section 1101 of this Act, $400,000,000 is available for the "Afghanistan Infrastructure Fund", to remain available until September 30, 2012: *Provided,* That such sums shall be available for infrastructure projects in Afghanistan, notwithstanding any other provision of law, which shall be undertaken by the Secretary of State, unless the Secretary of State and the Secretary of Defense jointly decide that a specific project will be undertaken by the Department of Defense: *Provided further,* That the infrastructure referred to in the preceding proviso is in support of the counterinsurgency strategy, requiring funding for facility and infrastructure projects, including water, power, and transportation projects and related maintenance and sustainment costs: *Provided further,* That the authority to undertake such infrastructure projects is in addition to any other authority to provide assistance to foreign nations: *Provided further,* That any projects funded by this appropriation shall be jointly formulated and concurred in by the Secretary of State and Secretary of Defense: *Provided further,* That funds may be transferred to the Department of State for purposes of undertaking projects, which funds shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act: *Provided further,* That the transfer authority in the preceding proviso is in addition to any other authority available to the Department of Defense to transfer funds: *Provided further,* That any unexpended funds transferred to the Secretary of State under this authority shall be returned to the Afghanistan Infrastructure Fund if the Secretary of State, in coordination with the Secretary of Defense, determines that the project cannot be implemented for any reason, or that the project no longer supports the counterinsurgency strategy in Afghanistan: *Provided further,* That any funds returned to the Secretary of Defense under the previous proviso shall be available for use under this section and shall be treated in the same manner as funds not transferred to the Secretary of State: *Provided further,* That contributions of funds for the purposes provided herein to the Secretary of State in accordance with section 635(d) of the Foreign Assistance Act from any person, foreign government, or international organization may be credited to such Fund, to remain available until expended, and used for such purposes: *Provided further*, That not later than 45 days after the end of each fiscal quarter, the Inspector General of the Department of State or the Inspector General of the United States Agency for International Development, as appropriate, shall

provide to the appropriate committees of Congress an assessment in writing of whether the funds provided herein to the Department of State or the United States Agency for International Development are being used in the intended manner: *Provided further,* That the Secretary of Defense shall, not fewer than 15 days prior to making transfers to or from, or obligations from, the Fund, notify the appropriate committees of Congress in writing of the details of any such transfer: *Provided further,* That the "appropriate committees of Congress" are the Committees on Armed Services, Foreign Relations, and Appropriations of the Senate and the Committees on Armed Services, Foreign Affairs, and Appropriations of the House of Representatives.

SEC. 2311. The authority provided by section 1021 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2042), as amended by section 1011 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2441), shall continue in effect through the earlier of the date of enactment of the National Defense Authorization Act for Fiscal Year 2011 or the date specified in section 1106 of this Act.

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

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

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

SEC. 2315. In addition to amounts otherwise made available by this Act, $2,770,300,000, is hereby appropriated for title I of division A of the Department of Defense Appropriations Act, 2010 (division A of Public Law 111–118).

SEC. 2316. The authority provided by sections 611, 612, 613, 614, 615, and 616 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84) shall continue in effect through the earlier of the date of enactment of the National Defense Authorization Act for Fiscal Year 2011 or December 31, 2011.

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

SEC. 2318. Notwithstanding subsection (b) of section 310 of the Supplemental Appropriations Act, 2009 (Public Law 111–32; 123 Stat. 1870), a claim described in that subsection that is submitted

before the date specified in section 1106 of this Act shall be treated as a claim for which payment may be made under such section 310.

SEC. 2319. The authority provided by section 1071 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84) shall continue in effect through the earlier of the date of enactment of the National Defense Authorization Act for Fiscal Year 2011 or December 31, 2011.

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

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

SEC. 2322. (a) EXTENSION OF WAIVER.—Paragraph (1) of section 941(b) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (Public Law 110–417; 122 Stat. 4577; 10 U.S.C. 184 note) is amended by striking "fiscal years 2009 and 2010" and inserting "fiscal years 2009 through 2011."

(b) ANNUAL REPORT.—Paragraph (3) of such section 941(b) is amended by striking "in 2010 and 2011" and inserting "in each year through 2012."

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

SEC. 2324. Notwithstanding any other provision of law, during fiscal year 2011, not more than $150,000,000 of the funds made available for overseas contingency operations operation and maintenance may be obligated and expended for purposes of the Task Force for Business and Stability Operations, subject to the direction and control of the Secretary of Defense, with concurrence of the Secretary of State, to carry out strategic business and economic assistance activities in support of Operation Enduring Freedom: *Provided*, That the Secretary of Defense shall, not fewer than 15 days prior to the use of the authority provided in this section, submit to the congressional defense committees a notice setting forth the projects to be initiated, including the budget and the completion date for each project.

SEC. 2325. Subsection (a) of section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1723), as amended by section 2806 of the Military Construction Authorization Act for Fiscal Year 2010 (division B of Public Law 111–84; 123 Stat. 2660), shall continue in effect through the date specified in section 1106 of this Act.

SEC. 2326. Of the amounts made available to the Department of Defense in section 1101 of this Act, the Secretary of Defense shall provide $205,000,000 to the government of Israel for the procurement of the Iron Dome defense system to counter short-range rocket threats.

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

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

(2) the increase in production rates or levels of effort above those sustained with amounts made available for fiscal year 2010; or

(3) the initiation, resumption, or continuation of any project, activity, operation, or organization (defined as any project, subproject, activity, budget activity, program element, and subprogram within an O–1 line, R–1 program element and P–1 line item in a budget activity within an appropriation account) for which appropriations, funds, or other authority were not available during fiscal year 2010 except as approved and described in subsection (b).

(b) The Secretary of Defense, with the approval of the Director of the Office of Management and Budget, may make a single transfer request to realign funds for execution in fiscal year 2011, to include new starts, increases in production or levels of effort, and other realignments to meet military requirements for which funds were not provided for during fiscal year 2010. The transfer of funds for such purposes shall be accomplished using the procedures established in section 8005 of the Department of Defense Appropriations Act, 2010 (division A of Public Law 111–118), by not later than 60 days after the date of enactment of this Act: *Provided*, That with the exception of funding provided in title I of the Department of Defense Appropriations Act, 2010 and for the "Defense Health Program" in section 2301 of this Act, and section 2332 of this Act, the program base from which realignments are proposed shall be the allocations as prescribed in section 1101 of this Act: *Provided further,* That transfers made in the realignment reprogramming shall not be taken into account for purposes of the limitation on the amount of funds that may be transferred under section 8005 of the Department of Defense Appropriation Act, 2010 (division A of Public Law 111–118).

(c) Subsequent to a transfer under subsection (b), the Secretary of Defense shall submit to the congressional defense committees reports on the baseline for application of reprogramming and transfer authorities for fiscal year 2011 as provided in section 8007 of the Department of Defense Appropriations Act, 2010 (division A of Public Law 111–118).

SEC. 2328. None of the amounts appropriated or authorities granted pursuant to section 1101 of this Act for the National Intelligence Program shall be used for new projects or sub-projects for which funds were not provided for in fiscal year 2010 or for increases in level of effort for previously funded projects or subprojects above the fiscal year 2010 funded level unless the congressional intelligence committees are notified in accordance with the regular reprogramming procedures.

SEC. 2329. Of the funds available in section 1101 of this Act, $250,000,000 is hereby appropriated for "Operation and Maintenance, Defense-Wide", to be available until expended: *Provided*, That such funds shall only be available to the Secretary of Defense, acting through the Office of Economic Adjustment of the Depart-

ment of Defense, or for transfer to the Secretary of Education, notwithstanding any other provision of law, to make grants, conclude cooperative agreements, or supplement other federal funds to construct, renovate, repair, or expand elementary and secondary public schools on military installations in order to address capacity or facility condition deficiencies at such schools: *Provided further*, That in making such funds available, the Office of Economic Adjustment or the Secretary of Education shall give priority consideration to those military installations with schools having the most serious capacity or facility condition deficiencies, as determined by the Secretary of Defense.

SEC. 2330. Of the amounts provided to the Department of Defense in section 1101 of this Act for operation and maintenance, $300,000,000, shall be for "Operation and Maintenance, Defense-Wide", to remain available until expended. Such funds may be available for the Office of Economic Adjustment, notwithstanding any other provision of law, for transportation infrastructure improvements associated with medical facilities related to recommendations of the Defense Base Closure and Realignment Commission.

SEC. 2331. None of the amounts appropriated or otherwise made available or authorities provided pursuant to section 1101 of this Act for the Department of Defense shall be used to initiate multiyear procurements.

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

SEC. 2333. For purposes of section 8089 of division A of the Department of Defense Appropriations Act, 2010 (division A of Public Law 111–118), any funds transferred shall retain the same period of availability as when originally appropriated.

SEC. 2334. (a) The amount provided by section 1101 of this Act for title II of division A of the Department of Defense Appropriations Act, 2010 (division A of Public Law 111–118) is hereby reduced to reflect excess cash balances in Department of Defense Working Capital Funds, as follows: From "Operation and Maintenance, Army", $483,000,000.

(b) Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

(1) "Aircraft Procurement, Navy, 2010/2012", $168,000,000;

(2) "Aircraft Procurement, Air Force, 2010/2012", $136,000,000; and

(3) "Research, Development, Test and Evaluation, Air Force 2010/2011", $182,000,000.

CHAPTER 4—ENERGY AND WATER DEVELOPMENT, AND RELATED AGENCIES

SEC. 2401. Sections 106, 107, 109 through 125, 203, 205 through 211, and 314 of the Energy Water and Development and Related Agencies Appropriations Act, 2010 (Public Law 111–85) shall not apply to funds appropriated in this Act.

SEC. 2402. The Secretary of the Army, acting through the Chief of Engineers, may waive the limitation concerning total project

costs in section 902 of the Water Resources Development Act of 1986 (33 U.S.C. 2280), if such limitation would be exceeded during fiscal year 2011 for any project that receives funds provided in this Act.

SEC. 2403. Notwithstanding section 1101, the level for "Corps of Engineers, Civil, Construction" shall be $1,837,000,000.

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

SEC. 2405. The proviso under the heading "Corps of Engineers, Civil, Mississippi River and Tributaries" in Public Law 111–85 shall not apply to funds appropriated in this Act.

SEC. 2406. The authority provided by section 126 of Public Law 111–85, which continues in effect through the date specified in section 1106 of this Act, shall include the authority to undertake such modifications or emergency measures as the Secretary of the Army determines to be appropriate to prevent aquatic nuisance species from dispersing into the Great Lakes by way of any hydrologic connection between the Great Lakes and the Mississippi River.

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

SEC. 2408. Notwithstanding section 1101, the level for each of the following accounts under the heading "Department of Energy, Energy Programs" shall be as follows: "Advanced Technology Vehicles Manufacturing Loan Program", $9,998,000; "Office of the Inspector General", $42,850,000; "Electricity Delivery and Energy Reliability", $158,982,000; "Nuclear Energy", $768,637,000; and "Strategic Petroleum Reserve", $209,861,000.

SEC. 2409. The first proviso under the heading "Department of Energy, Energy Programs, Science" in title III of the Energy and Water Development Appropriations Act, 2010 (Public Law 111–85) shall not apply to funds appropriated in this Act.

SEC. 2410. Up to a total of $300,000,000 of funds provided by section 1101 for "Department of Energy, Energy Programs, Energy Efficiency and Renewable Energy" and "Department of Energy, Energy Programs, Science" may be transferred by the Secretary of Energy to "Advanced Research Projects Agency—Energy": *Provided*, That of the funds transferred, the Director of the Advanced Research Projects Agency—Energy shall have the authority to fix basic pay and payments in addition to basic pay without regard to the civil service laws, provided that aggregate pay does not exceed the Vice President's salary as specified in 3 U.S.C. 104.

SEC. 2411. Notwithstanding section 1101, subject to section 502 of the Congressional Budget Act of 1974, amounts necessary to support commitments to guarantee loans under title XVII of the Energy Policy Act of 2005, not to exceed a total principal amount of $10,000,000,000, to remain available until committed: *Provided*, That of such amount $7,000,000,000 is for nuclear power facilities and $3,000,000,000 is for fossil energy technologies: *Provided further*, That these amounts are in addition to authorities provided in any other Act: *Provided further*, That for amounts collected pursuant to section 1702(b)(2) of the Energy Policy Act of 2005, the source of such payment received from borrowers may not be a loan

or other debt obligation that is guaranteed by the Federal Government: *Provided further*, That pursuant to section 1702(b)(2) of the Energy Policy Act of 2005, no appropriations are available to pay the subsidy cost of such guarantees for nuclear power facilities or fossil energy technologies: *Provided further*, That none of the loan guarantee authority made available in this Act shall be available for commitments to guarantee loans for any projects with respect to which funds, personnel, or property (tangible or intangible) of any Federal agency, instrumentality, personnel, or affiliated entity are expected to be used (directly or indirectly) through acquisitions, contracts, demonstrations, exchanges, grants, incentives, leases, procurements, sales, other transaction authority, or other arrangements, to support the project or to obtain goods or services from the project: *Provided further*, That the previous proviso shall not be interpreted as precluding the use of the loan guarantee authority in this Act for commitments to guarantee loans for (1) projects as a result of such projects benefitting from otherwise allowable Federal income tax benefits; (2) projects as a result of such projects benefitting from being located on Federal land pursuant to a lease or right-of-way agreement for which all consideration for all uses is (A) paid exclusively in cash, (B) deposited in the Treasury as offsetting receipts, and (C) equal to the fair market value as determined by the head of the relevant Federal agency; (3) projects as a result of such projects benefitting from Federal insurance programs, including under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210; commonly known as the "Price-Anderson Act"); or (4) electric generation projects using transmission facilities owned or operated by a Federal Power Marketing Administration or the Tennessee Valley Authority that have been authorized, approved, and financed independent of the project receiving the guarantee: *Provided further*, That none of the loan guarantee authority made available in this Act shall be available for any project unless the Director of the Office of Management and Budget has certified in advance in writing that the loan guarantee and the project comply with the provisos under this section: *Provided further*, That in addition to amounts otherwise made available by this Act, $306,000,000 is appropriated, to remain available until expended, for the cost of loan guarantees for projects that employ: (1) new or significantly improved technologies of renewable energy systems or efficient end-use energy technologies under section 1703 of the Energy Policy Act of 2005; or (2) notwithstanding section 1703(a)(2), commercial technologies of renewable energy systems, efficient end-use energy technologies, or leading edge biofuel projects: *Provided further*, That of the authority provided for commitments to guarantee loans under "Department of Energy, Energy Programs, Title 17 Innovative Technology Loan Guarantee Program" in title III of division C of Public Law 111–8 and title III of division C of Public Law 110–161, $18,000,000,000 is rescinded: *Provided further*, That an additional amount for necessary administrative expenses to carry out this Loan Guarantee program, $58,000,000 is appropriated, to remain available until expended: *Provided further*, That $58,000,000 of the fees collected pursuant to section 1702(h) of the Energy Policy Act of 2005 shall be credited as offsetting collections to this account to cover administrative expenses and shall remain available until expended, so as to result in a final fiscal year 2011

appropriations from the general fund estimated at not more than $0: *Provided further*, That fees collected under such section 1702(h) in excess of the amount appropriated for administrative expenses shall not be available until appropriated.

SEC. 2412. Notwithstanding section 1101, the level for "Atomic Energy Defense Activities, National Nuclear Security Administration, Weapons Activities" shall be $7,008,835,000: *Provided*, That $624,000,000 of such amount shall be available only upon the Senate giving its advice and consent to the ratification of the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms (commonly known as the "New START Treaty").

SEC. 2413. All of the provisos under the heading "Atomic Energy Defense Activities, National Nuclear Security Administration, Weapons Activities" in title III of the Energy and Water Development Appropriations Act, 2010 (Public Law 111–85) shall not apply to funds appropriated in this Act.

SEC. 2414. Notwithstanding section 1101, the level for "Atomic Energy Defense Activities, National Nuclear Security Administration, Defense Nuclear Nonproliferation" shall be $2,575,000,000.

SEC. 2415. The first proviso under the heading "Atomic Energy Defense Activities, National Nuclear Security Administration, Office of the Administrator" in title III of the Energy and Water Development Appropriations Act, 2010 (Public Law 111–85) shall not apply to funds appropriated in this Act.

SEC. 2416. Notwithstanding section 1101, the level for "Department of Energy, Environmental and Other Defense Activities, Defense Environmental Cleanup" shall be $5,263,031,000, of which $33,700,000 shall be transferred to the "Uranium Enrichment Decontamination and Decommissioning Fund".

SEC. 2417. (a) Notwithstanding any other provision of law, no funds appropriated in this or any other Act may be used in fiscal year 2011 to transfer, sell, barter, distribute, or otherwise provide more than 3,300,000 pounds of natural uranium equivalent of uranium in any form from the Department of Energy's inventory.

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

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

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

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

(2) The estimated market value of the uranium.

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

(4) The recipient of uranium.

SEC. 2418. Notwithstanding section 1105, no appropriation, funds, or authority made available pursuant to section 1101 for the

Department of Energy shall be used to initiate or resume any project or activity or to initiate Requests For Proposals or similar arrangements (including Requests for Quotations, Requests for Information, and Funding Opportunity Announcements) for a program or activity if the program or activity has not been funded by Congress, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate.

SEC. 2419. During the period specified in section 1106 of this Act, section 15751(b) of title 40, United States Code, shall not apply to the Northern Border Regional Commission.

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

CHAPTER 5—FINANCIAL SERVICES AND GENERAL GOVERNMENT

SEC. 2501. Notwithstanding section 1101, the level for each of the following accounts of the Department of the Treasury shall be as follows: "Departmental Offices, Salaries and Expenses", $320,088,000; "Special Inspector General for the Troubled Asset Relief Program, Salaries and Expenses", $36,300,000; "Treasury Inspector General for Tax Administration, Salaries and Expenses", $155,452,000; "Financial Management Service, Salaries and Expenses", $235,253,000; "Alcohol and Tobacco Tax and Trade Bureau, Salaries and Expenses", $101,000,000; and "Bureau of the Public Debt, Administering the Public Debt", $185,985,000.

SEC. 2502. Notwithstanding section 1101, under the heading "Department of the Treasury, Departmental Offices, Salaries and Expenses" in division C of Public Law 111–117, the requirement to transfer funds to the National Academy of Sciences for a carbon audit of the tax code shall not apply to funds appropriated by this Act.

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

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

SEC. 2505. Of the unobligated balances available under the heading "Treasury Forfeiture Fund", $350,000,000 is rescinded.

SEC. 2506. Notwithstanding section 1101, the requirement to transfer funds to the Capital Magnet Fund under the heading "Department of the Treasury, Community Development Financial Institutions Fund Program Account" in title I of division C of Public Law 111–117 shall not apply to funds appropriated by this Act, and the funds subject to such transfer shall remain with the aggregate amount of funds provided under the first paragraph under such heading in such Public Law.

SEC. 2507. Notwithstanding section 1101, the level for each of the following accounts of the Internal Revenue Service shall be as

follows: "Taxpayer Services", $2,338,215,000; "Operations Support", $4,159,884,000; "Business Systems Modernization", $363,897,000; and "Health Insurance Tax Credit Administration", $18,987,000.

SEC. 2508. Notwithstanding section 1101, the level for "Internal Revenue Service, Enforcement" shall be $5,629,500,000, of which not less than $125,500,000 shall be for enforcement related to offshore tax evasion.

SEC. 2509. Notwithstanding section 1101, the level for each of the following accounts shall be $0: "Executive Office of the President and Funds Appropriated to the President, Partnership Fund for Program Integrity Innovation"; "Office of National Drug Control Policy, Counterdrug Technology Assessment Center"; "District of Columbia, Federal Payment for Consolidated Laboratory Facility"; and "Election Assistance Commission, Election Reform Programs".

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

SEC. 2511. Any expenses incurred by the Election Assistance Commission using amounts appropriated under the heading "Election Assistance Commission, Election Reform Programs" in the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 327) for any program or activity which the Commission is authorized to carry out under the Help America Vote Act of 2002 shall be considered to have been incurred for the programs and activities described under such heading.

SEC. 2512. Notwithstanding section 1101, the level for "The Judiciary, Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses" shall be $5,137,236,000; *Provided*, That notwithstanding section 302 of division C of Public Law 111–117, not to exceed $101,962,000 shall be available for transfer between accounts to maintain fiscal year 2010 operating levels.

SEC. 2513. Section 203(c) of the Judicial Improvements Act of 1990 (Public Law 101–650; 28 U.S.C. 133 note), is amended—

(1) in the third sentence (relating to the District of Kansas), by striking "19 years" and inserting "20 years";

(2) in the sixth sentence (relating to the Northern District of Ohio), by striking "19 years" and inserting "20 years"; and

(3) in the seventh sentence (relating to the District of Hawaii), by striking "16 years" and inserting "17 years".

SEC. 2514. Notwithstanding any other provision of this Act, except section 1106, the District of Columbia may expend local funds for programs and activities under the heading "District of Columbia Funds" for such programs and activities under title IV of S. 3677 (111th Congress), as reported by the Committee on Appropriations

of the Senate, at the rate set forth under "District of Columbia Funds" as included in the Fiscal Year 2011 Budget Request Act (D.C. Act 18–448), as modified as of the date of the enactment of this Act.

SEC. 2515. Notwithstanding section 1101, the limits set forth in section 702 of division C of Public Law 111–117 shall not apply to any vehicle that is a commercial item and which operates on emerging motor vehicle technology, including electric, plug-in hybrid electric, and hydrogen fuel cell vehicles.

SEC. 2516. Notwithstanding section 1101, the aggregate amount of new obligational authority provided under the heading "General Services Administration, Real Property Activities, Federal Buildings Fund, Limitations on Availability of Revenue" for Federal buildings and courthouses and other purposes of the Fund shall be $8,228,561,000, of which $492,722,000 is provided for "Construction and Acquisition" and $500,067,000 is provided for "Repairs and Alterations": *Provided*, That the Administrator of General Services is authorized to initiate design, construction, repair, alteration, leasing, and other projects through existing authorities of the Administrator: *Provided further*, That the General Services Administration shall submit a detailed plan, by project, regarding the use of funds to the Committees on Appropriations of the House of Representatives and the Senate within 30 days of enactment of this section and will provide notification to the Committees within 15 days prior to any changes regarding the use of these funds.

SEC. 2517. The matter pertaining to the amount of $1,000,000 under the heading "General Services Administration, Operating Expenses" in division C of Public Law 111–117 (123 Stat. 3190) shall not apply to funds appropriated by this Act.

SEC. 2518. Notwithstanding section 1101, the level for each of the following accounts of the National Archives and Records Administration shall be as follows: "Operating Expenses", $348,689,000; "Office of Inspector General", $4,250,000; "Electronic Records Archives", $72,000,000, of which $52,500,000 shall remain available until September 30, 2013; "Repairs and Restoration" , $11,848,000; and "National Historical Publications and Records Commission, Grants Program", $10,000,000.

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

SEC. 2520. Division H of Public Law 108–447 is amended, under the heading "National Archives and Records Administration, Repairs and Restoration", by striking "of which $3,000,000 is for site preparation and construction management to construct a new regional archives and records facility in Anchorage, Alaska, and".

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

SEC. 2522. Notwithstanding section 1101, the level for "United States Postal Service, Payment to the Postal Service Fund" shall

be $29,000,000; and, notwithstanding section 1109, an additional $74,905,000 shall be available for obligation on October 1, 2011.

SEC. 2523. Of the unobligated balances of prior year appropriations available under the heading "Privacy and Civil Liberties Oversight Board", $1,500,000 is rescinded.

SEC. 2524. Section 617 of division C of Public Law 111–117 is amended by striking "December 31, 2009" and inserting "December 31, 2010".

SEC. 2525. Of the unobligated balances of prior year appropriations available under the heading "Federal Communications Commission, Salaries and Expenses", $2,800,000 is rescinded.

SEC. 2526. Section 710 of division C of Public Law 111–117 is amended in subsection (c) by striking "September 30, 2009" and inserting "September 30, 2010" and in subsection (e) by striking "September 30, 2009" and inserting "September 30, 2010".

SEC. 2527. Section 805(b) of division C of Public Law 111–117 is amended by striking "November 1, 2010" and inserting "November 1, 2011".

SEC. 2528. Section 302 of the Universal Service Antideficiency Temporary Suspension Act is amended by striking "December 31, 2010" each place it appears and inserting "December 31, 2011."

CHAPTER 6—HOMELAND SECURITY

SEC. 2601. Within 30 days after the date of enactment of this Act, the Department of Homeland Security shall submit to the Committees on Appropriations of the House of Representatives and the Senate an expenditure plan for fiscal year 2011 at a level of specificity below the account level for the activities listed in the detailed funding table contained in Public Law 111–83.

SEC. 2602. Notwithstanding section 1101, the level for "Office of the Under Secretary for Management" shall be $366,617,000, of which $129,384,000 shall remain available until expended for headquarters consolidation and improvements.

SEC. 2603. Notwithstanding section 1101, the level for "Office of the Federal Coordinator for Gulf Coast Rebuilding" shall be $0.

SEC. 2604. Notwithstanding section 1101, the level for each of the following accounts shall be as follows: "U.S. Customs and Border Protection, Salaries and Expenses", $8,208,013,000; "U.S. Customs and Border Protection, Automation Modernization", $347,575,000; "U.S. Customs and Border Protection, Border Security Fencing, Infrastructure, and Technology", $574,173,000; and "U.S. Customs and Border Protection, Construction and Facilities Management", $275,740,000.

SEC. 2605. Notwithstanding section 1101, the level for each of the following accounts shall be as follows: "U.S. Immigration and Customs Enforcement, Salaries and Expenses", $5,437,834,000; and "U.S. Immigration and Customs Enforcement, Automation Modernization", $84,700,000.

SEC. 2606. Notwithstanding section 1101, the level for each of the following accounts shall be as follows: "Transportation Security Administration, Aviation Security", $5,269,490,000, of which $320,000,000 shall be for the purchase and installation of explosives detection systems; "Transportation Security Administration, Surface Transportation Security", $137,558,000; and "Transportation Security Administration, Federal Air Marshals",

$926,711,000: *Provided*, That in applying the second proviso under the Aviation Security heading with respect to amounts made available by this Act, "9 percent" shall be substituted for "28 percent": *Provided further*, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to the "Aviation Security" appropriation as offsetting collections and shall be available only for aviation security: *Provided further*, That the sum appropriated under the Aviation Security heading from the general fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2011, so as to result in a final fiscal year appropriation from the general fund estimated at not more than $3,169,490,000.

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

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

"(b) Not later than 120 days after the end of each quarter, the Assistant Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report on air cargo inspection statistics by airport and air carrier detailing the incremental progress being made to meet the requirement of section 44901(g)(2)(B) of title 49, United States Code.

"(c) Not later than 180 days after the date of the enactment of the Full-Year Continuing Appropriations Act, 2011, the Assistant Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives, a report that either—

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

"(2) includes a strategy to comply with the requirements under section 44901(g) of title 49, United States Code, including—

"(A) a plan to meet the requirement under section 44901(g) of title 49, United States Code, to screen 100 percent of air cargo transported on passenger aircraft arriving in the United States in foreign air transportation (as that term is defined in section 40102 of that title); and

"(B) specification of—

"(i) the percentage of such air cargo that is being screened; and

"(ii) the schedule for achieving screening of 100 percent of such air cargo.

"(d) The Assistant Secretary shall continue to submit reports described in subsection (c)(2) every 180 days thereafter until the Assistant Secretary certifies that the Transportation Security Administration has achieved screening of 100 percent of such air cargo.".

SEC. 2608. (a) CIVIL PENALTIES.—Section 46301(a)(5)(A)(i) of title 49, United States Code, is amended—

(1) by striking "or chapter 449" and inserting "chapter 449"; and

(2) by inserting ", or section 46314(a)" after "44909)".

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

"(b) CRIMINAL PENALTY.—A person violating subsection (a) of this section shall be fined under title 18, imprisoned for not more than 10 years, or both.".

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

"(c) NOTICE OF PENALTIES.—

"(1) IN GENERAL.—Each operator of an airport in the United States that is required to establish an air transportation security program pursuant to section 44903(c) shall ensure that signs that meet such requirements as the Secretary of Homeland Security may prescribe providing notice of the penalties imposed under sections 46301(a)(5)(A)(i) and subsection (b) of this section, are displayed near all screening locations, all locations where passengers exit the sterile area, and such other locations at the airport as the Secretary of Homeland Security determines appropriate.

"(2) EFFECT OF SIGNS ON PENALTIES.—An individual shall be subject to the penalty provided for under section 46301(a)(5)(A)(i) and subsection (b) of this section without regard to whether or not signs are displayed at an airport as required by paragraph (1).".

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

SEC. 2610. Notwithstanding section 1101, the level for "Coast Guard, Acquisition, Construction, and Improvements" shall be $1,477,985,000, of which $2,000,000 shall be derived from the Coast Guard Housing Fund, established by section 687 of title 14, United States Code, and shall remain available until expended for military family housing; of which $73,200,000 shall be for vessels, small boats, critical infrastructure and related equipment; of which $36,000,000 shall be for other equipment; of which $69,200,000 shall be for shore facilities and aids to navigation facilities; of which $106,083,000 shall be available for personnel compensation and benefits and related costs; and of which $1,191,502,000 shall be for the Integrated Deepwater Systems program: *Provided*, That of the funds made available for the Integrated Deepwater Systems program, $103,000,000 is for aircraft and $933,002,000 is for surface ships.

SEC. 2611. Notwithstanding section 1101, the level for "Coast Guard, Alteration of Bridges" shall be $0.

SEC. 2612. (a) Subject to subsection (b), for fiscal year 2011, the Coast Guard may enter into agreements under section 1535 of title 31, United States Code, with the Secretary of the Navy for the disposal of Coast Guard vessels in accordance with sections 7305 and 7305a of title 10, United States Code.

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

SEC. 2613. In addition to amounts otherwise made available by this Act to "United States Secret Service, Salaries and Expenses", $14,000,000 is appropriated for costs associated with protection to be provided to candidates in the 2012 presidential campaign and $7,000,000 is appropriated for costs associated with implementation of the United States Secret Service Uniformed Division Modernization Act of 2010 (Public Law 111–282).

SEC. 2614. Notwithstanding section 1101, the level for "National Protection and Programs Directorate, Infrastructure Protection and Information Security" shall be $878,316,000.

SEC. 2615. Notwithstanding section 1101, the level for "United States Visitor and Immigrant Status Indicator Technology" shall be $339,263,000.

SEC. 2616. Notwithstanding section 1101, the level for "Federal Emergency Management Agency, State and Local Programs" shall be $2,913,058,000: *Provided*, That 4.5 percent of the amount provided shall be transferred to the Federal Emergency Management Agency "Management and Administration" account for program administration: *Provided further*, That paragraph (10) and subparagraphs (B) and (C) of paragraph (13) under the heading "Federal Emergency Management Agency, State and Local Programs" in Public Law 111–83 shall not apply to funds appropriated by this Act: *Provided further*, That $12,558,000 is available under paragraph (12) under such heading in such public law, to be competitively awarded.

SEC. 2617. Notwithstanding section 1101, in fiscal year 2011, funds shall not be available from the National Flood Insurance Fund under section 1310 of the National Flood Insurance Act of 1968 (42 U.S.C. 4017) for operating expenses in excess of $110,000,000, and for agents' commissions and taxes in excess of $963,339,000: *Provided*, That notwithstanding section 1101, for activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), the level shall be $169,000,000, which shall be derived from offsetting collections assessed and collected under 1308(d) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(d)), of which not to exceed $22,145,000 shall be available for salaries and expenses associated with flood mitigation and flood insurance operations; and not less than $146,855,000 shall be available for flood plain management and flood mapping, which shall remain available until September 30, 2012.

SEC. 2618. Notwithstanding the requirement under section 34(a)(1)(A) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229a(a)(1)(A)) that grants must be used to increase the number of firefighters in fire departments, the Secretary of Homeland Security, in making grants under section 34 of such Act using the funds appropriated for fiscal year 2011, shall grant waivers from the requirements of subsections (a)(1)(B), (c)(1), (c)(2), and

(c)(4)(A) of such section: *Provided further*, That section 34(a)(1)(E) of such Act shall not apply with respect to funds appropriated for fiscal year 2011 for grants under section 34 of such Act: *Provided further*, That the Secretary of Homeland Security, in making grants under section 34 of such Act, shall ensure that funds appropriated for fiscal year 2011 are made available for the retention of firefighters.

SEC. 2619. Notwithstanding section 1101, the level for "Federal Emergency Management Agency, National Predisaster Mitigation Fund" shall be $85,000,000.

SEC. 2620. Notwithstanding section 1101, the level for "Federal Emergency Management Agency, Disaster Relief" shall be increased by $130,000,000.

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

SEC. 2622. Notwithstanding section 1101, the level for "United States Citizenship and Immigration Services" shall be $306,400,000, of which $176,000,000 shall be for processing applications for asylum or refugee status, and of which $103,400,000 is for the E–Verify Program, as authorized by section 402 of the Illegal Immigration Reform and Immigrant Responsibility Act (8 U.S.C. 1324a note): *Provided*, That none of the funds made available in this section shall be available for development of the system commonly known as the "REAL ID hub".

SEC. 2623. Notwithstanding section 1101, the level for "Federal Law Enforcement Training Center, Acquisition, Construction, Improvements, and Related Expenses" shall be $38,456,000.

SEC. 2624. Notwithstanding section 1101, the level for "Science and Technology, Research, Development, Acquisition, and Operations" shall be $821,906,000: *Provided*, That the final proviso under this heading in Public Law 111–83 (related to the National Bio- and Agro-defense Facility) shall have no effect with respect to all amounts available under this heading.

SEC. 2625. Notwithstanding section 1101, the level for "Domestic Nuclear Detection Office, Research, Development, and Operations" shall be $299,537,000.

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

"SEC. 560. (a) No funding provided in this or previous appropriations Acts shall be used for construction of the National Bio- and Agro-defense Facility in Manhattan, Kansas until—

"(1) the Department of Homeland Security has completed 50 percent of National Bio- and Agro-defense Facility design planning and submitted a revised site-specific biosafety and biosecurity mitigation risk assessment that describes how to significantly reduce risks of conducting essential research and diagnostic testing at the National Bio- and Agro-defense Facility and addresses shortcomings identified in the National Academy of Sciences' evaluation of the initial site-specific biosafety and biosecurity mitigation risk assessment; and

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

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

"(1) include a quantitative risk assessment for foot-and-mouth disease virus, in particular epidemiological and economic impact modeling to determine the overall risk of operating the facility for its expected 50-year life span, taking into account strategies to mitigate risk of foot-and-mouth disease virus release from the laboratory and ensure safe operations at the approved National Bio- and Agro-defense Facility site;

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

"(3) include overall risks of the most dangerous pathogens the Department of Homeland Security expects to hold in the National Bio- and Agro-defense Facility's biosafety level 4 facility, and effectiveness of mitigation strategies to reduce those risks.

"(c) The Secretary of Homeland Security shall enter into a contract with the National Academy of Sciences to evaluate the adequacy and validity of the risk assessment required by subsection (a). The National Academy of Sciences shall submit a report on such evaluation within 4 months after the date the Department of Homeland Security concludes its risk assessment.".

SEC. 2627. From the unobligated balances for "Operations" of funds transferred to the Department of Homeland Security when it was created in 2003, $1,891,657 is rescinded.

SEC. 2628. From the unobligated balances available for prior fiscal years for "U.S. Customs and Border Protection, Construction" for construction projects, $99,772,000 is rescinded: *Provided*, That the amounts rescinded under this section shall be limited to amounts available for Border Patrol projects and facilities.

SEC. 2629. From the unobligated balances of funds for the "Violent Crime Reduction Program" transferred to the Department of Homeland Security when it was established in 2003, $4,912,245 is rescinded.

SEC. 2630. From the unobligated balances of prior year appropriations made available for "U.S. Customs and Border Protection, Salaries and Expenses" transferred to the Department of Homeland Security when it was established in 2003, $18,122,393 is rescinded.

SEC. 2631. From the unobligated balances of prior year appropriations made available for "Federal Emergency Management Agency, National Pre-Disaster Mitigation Fund", $18,173,641 is rescinded.

SEC. 2632. From the unobligated balances of funds for the "Office for Domestic Preparedness" transferred to the Department of Homeland Security when it was established, $10,568,964 is rescinded.

SEC. 2633. From unobligated balances of prior year appropriations made available for United States Citizenship and Immigration Services for the program commonly known as the "REAL ID hub", $16,500,000 is rescinded.

SEC. 2634. From the unobligated balances of prior year appropriations made available for "Science and Technology, Research,

Development, Acquisition, and Operations", $32,000,000 is rescinded.

SEC. 2635. From the unobligated balances of funds made available in the Department of the Treasury Forfeiture Fund established by section 9703 of title 31, United States Code, that was added to such title by section 638 of Public Law 102–393, $22,600,000 is rescinded.

SEC. 2636. Section 550(b) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295; 6 U.S.C. 121 note), is amended by striking "on October 4, 2010" and inserting "on October 4, 2011".

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

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

(1) in subsection (a), by striking "Until September 30, 2010" and inserting "Until September 30, 2011,"; and

(2) in subsection (d)(1), by striking "September 30, 2010," and inserting "September 30, 2011,".

CHAPTER 7—INTERIOR, ENVIRONMENT, AND RELATED AGENCIES

SEC. 2701. Notwithstanding section 1101, the level for each of the following accounts shall be as follows: "Bureau of Land Management, Management of Lands and Resources", $971,306,000; "National Park Service, National Recreation and Preservation", $62,586,000; "Minerals Management Service, Oil Spill Research", $11,768,000; "Indian Health Service, Indian Health Facilities", $443,320,000; "Smithsonian Institution, Legacy Fund", $0; "Dwight D. Eisenhower Memorial Commission, Salaries and Expenses", $0; and "Dwight D. Eisenhower Memorial Commission, Capital Construction", $0.

SEC. 2702. Notwithstanding any other provision of this Act, the funding level for "National Park Service, Park Partnership Project Grants" shall be $0 and the matter pertaining to such account in division A of Public Law 111–88 shall not apply to funds appropriated by this Act.

SEC. 2703. Notwithstanding section 1101, the last proviso under the heading "National Park Service, Construction" in division A of Public Law 111–88 shall not apply to funds appropriated by this Act.

SEC. 2704. Notwithstanding section 1101, the level for "United States Geological Survey, Surveys, Investigations, and Research" shall be $1,125,090,000, of which $53,500,000 shall be for satellite operations, and of which $4,807,000 shall be for deferred maintenance and capital improvement projects that exceed $100,000 in cost.

SEC. 2705. Notwithstanding section 1101, the provisions under the heading "Minerals Management Service, Royalty and Offshore Minerals Management" in division A of Public Law 111–88 shall be applied to funds appropriated by this Act as follows: by substituting "$271,113,000" for "$175,217,000"; by substituting "$113,174,000" for "$89,374,000"; by substituting "$154,890,000" for

"$156,730,000" each place it appears; and by substituting "fiscal year 2011" for "fiscal year 2010" each place it appears.

SEC. 2706. Notwithstanding section 1101, the provisions under the heading "Bureau of Indian Affairs, Operation of Indian Programs" in division A of Public Law 111–88 shall be applied to funds appropriated by this Act as follows: by substituting "$2,355,965,000" for "$2,335,965,000"; by substituting "$200,000,000" for "$166,000,000" in the matter pertaining to contract support costs; by substituting "$85,000,000" for "$74,915,000" in the matter pertaining to welfare assistance payments; by substituting "$597,449,000" for "$568,702,000" in the matter pertaining to school operations costs of Bureau-funded schools and other education programs; and by substituting "$53,899,000" for "$43,373,000" in the matter pertaining to administrative cost grants for school operations.

SEC. 2707. The matter pertaining to Public Law 109–379 (regarding the Isleta Pueblo settlement) under the heading "Bureau of Indian Affairs, Indian Land and Water Claim Settlements and Miscellaneous Payments to Indians" in division A of Public Law 111–88 shall not apply to funds appropriated by this Act.

SEC. 2708. Notwithstanding section 1101, the level for "Environmental Protection Agency, Environmental Programs and Management" shall be $2,840,779,000, of which $455,441,000 shall be for the Geographic Programs specified in the explanatory statement accompanying Public Law 111–88, except that the funding level for the Great Lakes Restoration Initiative shall be $322,000,000.

SEC. 2709. Notwithstanding section 1101, the level for "Environmental Protection Agency, State and Tribal Assistance Grants" shall be $4,813,446,000, of which $0 shall be for special project grants.

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

SEC. 2711. Of the unobligated balances available for "Environmental Protection Agency, State and Tribal Assistance Grants", $10,000,000 is rescinded: *Provided*, That no amounts may be rescinded from amounts that were designated by Congress as an emergency requirement pursuant to a concurrent resolution on the budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

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

SEC. 2713. Notwithstanding section 1101, the level for "Indian Health Service, Indian Health Services" shall be $3,797,227,000, and the provisions under such heading shall be applied to funds appropriated by this Act by substituting "$816,759,000" for "$779,347,000" in the matter pertaining to contract medical care; by substituting "$404,332,000" for "$398,490,000" in the matter pertaining to contract support costs; and in section 409 of division

A of Public Law 111–88 by substituting "111–8, and 111–88" for "and 111–8" and by substituting "2010" for "2009".

SEC. 2714. The matter pertaining to methyl isocyanate in the last proviso under the heading "Chemical Safety and Hazard Investigation Board, Salaries and Expenses" in division A of Public Law 111–88 shall not apply to funds appropriated by this Act.

SEC. 2715. Notwithstanding section 1101, the provisions under the heading "National Gallery of Art, Repair, Restoration and Renovation of Buildings" in division A of Public Law 111–88 shall be applied to funds appropriated by this Act by substituting "$42,250,000" for "$40,000,000" in the matter pertaining to repair of the National Gallery's East Building façade.

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

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

SEC. 2718. (a) Notwithstanding any other provision of this Act, the Secretary of the Interior may enter into multiyear cooperative agreements with nonprofit organizations and other appropriate entities, and may enter into multiyear contracts in accordance with the provisions of section 304B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c) (except that the 5 year term restriction in subsection (d) shall not apply), for the long-term care and maintenance of excess wild free-roaming horses and burros by such organizations or entities on private land. Such cooperative agreements and contracts may not exceed 10 years, subject to renewal at the discretion of the Secretary.

(b) During fiscal year 2011 and subsequent fiscal years, in carrying out work involving cooperation with any State or political subdivision thereof, the Bureau of Land Management may record obligations against accounts receivable from any such entities.

SEC. 2719. During fiscal year 2011, the Secretary of the Interior, in order to implement a reorganization of the Bureau of Ocean Energy Management, Regulation, and Enforcement, may establish accounts, transfer funds among and between the offices and bureaus affected by the reorganization, and take any other administrative actions necessary in conformance with the Appropriations Committee reprogramming procedures described in the joint explanatory statement of the managers accompanying Public Law 111–88.

SEC. 2720. Notwithstanding any other provision of this Act, during fiscal year 2011 and subsequent fiscal years, the Secretary of Agriculture, acting through the Forest Service, may carry out a program, to be known as the "Legacy Road and Trail Remediation program", to conduct urgently needed decommissioning of Forest Service roads, forest road and trail repair and maintenance and associated activities, and removal of fish passage barriers on National Forest System lands, especially in areas where Forest Service roads may be contributing to water quality problems in streams and water bodies supporting threatened, endangered, or sensitive species or community water sources.

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

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

SEC. 2723. Section 433 of division A of Public Law 111–88 (regarding Forest Service cabin user fees) is amended by striking "2010" and "2009" and inserting "2011" and "2010", respectively.

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

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

SEC. 2726. Within 30 days after the date of the enactment of this Act, each of the following departments and agencies shall submit to the House and Senate Committees on Appropriations a spending, expenditure, or operating plan for fiscal year 2011 at a level of detail below the account level:

(1) Department of Agriculture, Forest Service.
(2) Department of the Interior.
(3) Environmental Protection Agency.
(4) Indian Health Service.
(5) Smithsonian Institution.
(6) National Gallery of Art.
(7) National Endowment for the Arts.
(8) National Endowment for the Humanities.

SEC. 2727. (a) MODIFICATION.—

(1) IN GENERAL.—The first sentence of section 19 of the Act of June 18, 1934 (commonly known as the "Indian Reorganization Act") (25 U.S.C. 479), is amended—

(A) by striking "The term" and inserting "Effective beginning on June 18, 1934, the term"; and

(B) by striking "any recognized Indian tribe now under Federal jurisdiction" and inserting "any federally recognized Indian tribe".

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

(b) RATIFICATION AND CONFIRMATION OF ACTIONS.—Any action taken by the Secretary of the Interior pursuant to the Act of June 18, 1934 (commonly known as the "Indian Reorganization Act") (25 U.S.C. 461 et seq.) for any Indian tribe that was federally recognized on the date of the action is ratified and confirmed, to the extent such action is subjected to challenge based on whether the Indian tribe was federally recognized or under Federal jurisdiction on June 18, 1934, ratified and confirmed as fully to all intents and purposes as if the action had, by prior act of Congress, been specifically authorized and directed.

(c) EFFECT ON OTHER LAWS.—

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

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

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

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

CHAPTER 8—LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES

SEC. 2801. (a) Notwithstanding section 1101, the level for "Department of Labor, Employment and Training Administration, Training and Employment Services" shall be $1,906,530,000 plus reimbursements, of which (1) $879,961,000 shall be available for obligation for the period July 1, 2011, through June 30, 2012, of which $68,450,000 shall be available for pilots, demonstrations, and research activities; (2) $1,026,569,000 shall be available for obligation for the period April 1, 2011, through June 30, 2012, for youth programs (including YouthBuild); and (3) no funds shall be available for the Career Pathways Innovation Fund.

(b) Notwithstanding section 1101, the level for "Department of Labor, Employment and Training Administration, Community Service Employment for Older Americans" shall be $620,425,000, to remain available through June 30, 2012, and the first and second provisos under such heading in division D of Public Law 111–117 shall not apply to funds appropriated by this Act.

(c) Notwithstanding section 1101, the level which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund for administrative expenses of "Department of Labor, Employment and Training Administration, State Unemployment Insurance and Employment Service Operations" shall be $4,154,490,000 (which includes all amounts available to conduct in-person reemployment and eligibility assessments and unemployment insurance improper payment reviews), of which $3,375,645,000 shall be available for unemployment compensation State operations, $50,519,000 shall be available for Federal administration of foreign labor certifications, and $15,129,000 shall be available for grants to States for the administration of such activities. For purposes of this section, the first proviso under such heading in division D of Public Law 111–117 shall be applied by substituting "2011" and "6,051,000" for "2010" and "5,059,000", respectively.

SEC. 2802. Funds appropriated by section 1101 of this Act to the Department of Labor's Employment and Training Administration for technical assistance services to grantees may be transferred to "Department of Labor, Employment and Training Administration, Program Administration" if it is determined that those services will be more efficiently performed by Federal staff.

SEC. 2803. Notwithstanding section 1101, the level for "Department of Labor, Employee Benefits Security Administration, Salaries and Expenses" shall be $164,861,000.

SEC. 2804. Notwithstanding section 1101, the level for "Department of Labor, Mine Safety and Health Administration, Salaries and Expenses" shall be $381,493,000, of which up to $15,000,000 shall be available to the Secretary of Labor to be transferred to "Departmental Management, Salaries and Expenses" for activities related to the Department of Labor's caseload before the Federal Mine Safety and Health Review Commission and the amounts included under the heading "Department of Labor, Mine Safety and Health Administration, Salaries and Expenses" in division D of Public Law 111–117 shall be applied to funds appropriated in this Act during fiscal year 2011 by substituting "$1,350,000" for "$1,000,000".

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

SEC. 2806. Notwithstanding section 1101, the level for "Department of Labor, Departmental Management, Office of Job Corps" shall be $1,027,205,000 (which may be administered within the Employment and Training Administration pursuant to section 108 of division D of Public Law 111–117), of which $993,015,000 shall be available to meet the operational needs of Job Corps centers. Of appropriations made available in this Act for construction, rehabilitation, and acquisition of Job Corps centers, the Secretary of Labor may transfer up to 25 percent to meet the operational needs of Job Corps centers.

SEC. 2807. (a) Of the unobligated balances available in "Department of Labor, Working Capital Fund", $3,900,000 is permanently rescinded, to be derived solely from amounts available in the Investment in Reinvention Fund (other than amounts that were designated by the Congress as an emergency requirement pursuant to a concurrent resolution on the budget or the Balanced Budget and Emergency Deficit Control Act of 1985).

(b) Public Law 85–67 is amended by striking the third proviso under the heading "Working Capital Fund" (as added by Public Law 104–134) and relating to establishment of an Investment in Reinvention Fund.

SEC. 2808. Notwithstanding section 102 of division D of Public Law 111–117, not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985) that are appropriated for the current fiscal year for the Department of Labor in this Act may be transferred among appropriations, but no such appropriation to which such funds are transferred may be increased by more than 3 percent by any such transfer: *Provided*, That the transfer authority granted by this section shall be available only to meet unanticipated needs and shall not be used to create any new program or to fund any project or activity for which no funds are provided in this Act: *Provided further*, That the Committees on Appropriations are notified at least 15 days in advance of any transfer.

SEC. 2809. (a) Notwithstanding section 1101, the level for "Department of Health and Human Services, Health Resources and Services Administration, Health Resources and Services" shall be $7,270,520,000, of which (1) not more than $100,000,000 shall be available until expended for carrying out the provisions of Public Law 104–73 and for expenses incurred by the Department of Health and Human Services pertaining to administrative claims made under such law; (2) not less than $1,932,865,000 shall remain available through September 30, 2013 for parts A and B of title XXVI of the Public Health Service Act (hereafter in this chapter,"PHS Act"), of which not less than $835,000,000 shall be for State AIDS Drug Assistance Programs under section 2616 of such Act; (3) in addition to amounts designated above to carry out parts A and B of title XXVI of the PHS Act, $60,000,000 shall be available through September 30, 2013, for allocation to State AIDS Drug Assistance Programs under section 2616 or section 311(c) of the PHS Act; and (4) not less than $612,954,000 shall be available for health professions programs under titles VII and VIII and section 340G of the PHS Act.

(b) The eighteenth and nineteenth provisos under the heading "Department of Health and Human Services, Health Resources and Services Administration, Health Resources and Services" in division D of Public Law 111–117 shall not apply to funds appropriated by this Act.

(c) Sections 340G–1(d)(1) and (d)(2), 747(c)(2), and 751(j)(2) of the PHS Act, and the proportional funding amounts in paragraphs (1) through (4) of section 756(e) of such Act shall not apply to funds made available in this Act for "Department of Health and Human Services, Health Resources and Services Administration, Health Resources and Services".

(d) For any program operating under section 751 of the PHS Act on or before January 1, 2009, the Secretary of Health and Human Services may waive any of the requirements contained in sections 751(d)(2)(A) and 751(d)(2)(B) of such Act.

SEC. 2810. (a) Notwithstanding section 1101, the level for the first paragraph under the heading "Department of Health and Human Services; Centers for Disease Control and Prevention; Disease Control, Research, and Training" shall be $6,251,352,000, of which (1) $150,137,000 shall be available until expended to provide screening and treatment for first response emergency services personnel, residents, students, and others related to the September 11, 2001 terrorist attacks on the World Trade Center; (2) $12,000,000 shall remain available until expended for acquisition of real property, equipment, construction, and renovation of facilities, including necessary repairs and improvements to laboratories leased or operated by the Centers for Disease Control and Prevention; and (3) $527,234,000 shall remain available until expended for the Strategic National Stockpile under section 319F–2 of the PHS Act.

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

(c) Notwithstanding section 1101, funds appropriated for "Department of Health and Human Services; Centers for Disease Control and Prevention; Disease Control, Research, and Training" shall also be available to carry out title II of the Immigration and Na-

tionality Act and sections 4001, 4004, 4201, and 4301 of the Patient Protection and Affordable Care Act (Public Law 111–148).

SEC. 2811. Notwithstanding section 1101, the level for "Department of Health and Human Services, National Institutes of Health, National Institute of Allergy and Infectious Diseases" shall be $4,818,275,000, and the requirement under such heading in division D of Public Law 111–117 for a transfer from Biodefense Countermeasures funds shall not apply.

SEC. 2812. Of the amount provided by section 1101 for "Department of Health and Human Services, National Institutes of Health, Office of the Director" (including amounts available for the Common Fund and the Director's Discretionary Fund), up to $25,000,000 shall be available to implement the Cures Acceleration Network authorized by section 402C of the PHS Act.

SEC. 2813. (a) Notwithstanding section 1101, the level for "Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Substance Abuse and Mental Health Services" shall be $3,417,106,000.

(b) The second proviso under the heading "Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Substance Abuse and Mental Health Services" in division D of Public Law 111–117 shall not apply to funds appropriated by this Act.

SEC. 2814. Notwithstanding section 1101, the level for amounts transferred from the Federal Hospital Insurance and Supplementary Medical Insurance Trust Funds for "Department of Health and Human Services, Centers for Medicare and Medicaid Services, Program Management" shall not exceed $3,623,113,000, of which $9,120,000 shall remain available through September 30, 2012, for Medicare contracting reform activities.

SEC. 2815. Notwithstanding section 1101, the level for "Department of Health and Human Services, Centers for Medicare and Medicaid Services, Health Care Fraud and Abuse Control" shall be $461,000,000 which shall remain available through September 30, 2012, of which (1) $274,640,000 shall be for the Medicare Integrity Program at the Centers for Medicare & Medicaid Services, including administrative costs, to conduct oversight activities for Medicare Advantage and the Medicare Prescription Drug Program authorized in title XVIII of the Social Security Act and for activities listed in section 1893 of such Act; (2) $78,057,000 shall be for the Department of Health and Human Services Office of Inspector General to carry out fraud and abuse activities authorized by section 1817(k)(3) of such Act; (3) $34,400,000 shall be for the Medicaid and Children's Health Insurance Program ("CHIP") program integrity activities; and (4) $73,903,000 shall be for the Department of Justice to carry out fraud and abuse activities authorized by section 1817(k)(3) of such Act.

SEC. 2816. Notwithstanding section 1101, the level for "Department of Health and Human Services, Administration for Children and Families, Payments to States for the Child Care and Development Block Grant" shall be $2,501,081,000.

SEC. 2817. (a) Notwithstanding section 1101, the level for "Department of Health and Human Services, Administration for Children and Families, Children and Families Services Programs" shall be $9,643,532,000, of which—

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

(2) $7,548,783,000 shall be for making payments under the Head Start Act; and, for purposes of allocating such funds under the Head Start Act, the term "base grant" as used in subsection (a)(7)(A) of section 640 of such Act with respect to funding provided to a Head Start agency (including each Early Head Start agency) for fiscal year 2010 shall be deemed to include an amount obtained by multiplying 50 percent of the funds appropriated under "Department of Health and Human Services, Administration for Children and Families, Children and Family Services Programs" in Public Law 111–5 and provided to such agency for carrying out expansion of Head Start programs, as that phrase is used in subsection (a)(4)(D) of such section 640, and provided to such agency as the ongoing funding level for operations in the 12 month budget period beginning in fiscal year 2010 ("expansion grants"), by a fraction whose numerator is the number of children actually enrolled in that agency's Head Start program in slots funded by such expansion grants as of October 30, 2010, and whose denominator is the client population number included in the obligating documents for such expansion grants for that agency's Head Start program for such budget period; and

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

(b) Notwithstanding section 611(d)(1) of title VI of division G of Public Law 110–161, the National Commission on Children and Disasters shall terminate on October 1, 2011.

SEC. 2818. (a) Notwithstanding section 1101, funds appropriated for "Department of Health and Human Services, Administration on Aging, Aging Services Programs" shall also be available to carry out subtitle B of title XX of the Social Security Act and for necessary administrative expenses to carry out title XVII of the PHS Act.

(b) Amounts otherwise available in this Act to carry out activities relating to Aging and Disability Resource Centers, under subsections (a)(20)(B)(iii) and (b)(8) of section 202 of the Older Americans Act of 1965, shall be reduced by any amounts made available for fiscal year 2011 for such purposes under section 2405 of the Patient Protection and Affordable Care Act.

SEC. 2819. The amounts included under the heading "Department of Health and Human Services, Office of the Secretary, General Departmental Management" in division D of Public Law 111–117 shall be applied to funds appropriated by this Act by substituting "$538,318,000" for "$493,377,000" and such amounts shall also be available to carry out title XXVII of the PHS Act, the second proviso under such heading shall not apply, and none of the funds made available in this Act shall be for carrying out activities specified under section 2003(b)(2) or (3) of the PHS Act.

SEC. 2820. Notwithstanding section 1101, the level for "Department of Health and Human Services, Office of the Secretary, Office of Medicare Hearings and Appeals" shall be $77,798,000.

SEC. 2821. Notwithstanding section 1101, the level for "Department of Health and Human Services, Office of the Secretary, Office of Inspector General" shall be $60,754,000.

SEC. 2822. Notwithstanding section 1101, the level for "Department of Health and Human Services, Office of the Secretary, Office for Civil Rights" (excluding amounts transferred from trust funds) shall be $41,068,000.

SEC. 2823. (a) Notwithstanding section 1101, the level for "Department of Health and Human Services, Office of the Secretary, Public Health and Social Services and Emergency Fund" shall be $1,134,303,000, of which (1) $403,194,000 shall remain available through September 30, 2012, to support advanced research and development pursuant to section 319L of the PHS Act and which shall be derived by transfer from funds transferred to "Department of Health and Human Services, Office of the Secretary, Public Health and Social Services Emergency Fund" by Public Law 111–117 in the fourth paragraph under such heading; (2) $78,167,000 shall be for expenses necessary to prepare for and respond to an influenza pandemic, none of which shall be available past September 30, 2011; and (3) $35,000,000 shall be for expenses necessary for fit-out and other costs related to a competitive lease procurement to renovate or replace the existing headquarters building for Public Health Service agencies and other components of the Department of Health and Human Services.

(b) Of the amounts provided under the heading "Department of Health and Human Services, Office of the Secretary, Public Health and Social Services Emergency Fund" in Public Laws 111–8 and 111–117 and available for expenses necessary to prepare for and respond to an influenza pandemic, $170,000,000 may also be used (1) to plan, conduct, and support research to advance regulatory science to improve the ability to determine safety, effectiveness, quality, and performance of medical countermeasure products against chemical, biological, radiological, and nuclear agents including influenza virus; and (2) to analyze, conduct, and improve regulatory review and compliance processes for such products.

SEC. 2824. (a) Not later than 45 days after enactment of this Act, the Secretary of Health and Human Services shall transfer from "Prevention and Public Health Fund"—

(1) $20,000,000 to "Health Resources and Services" for an additional amount to carry out sections 766, 767, 768, and 776 of the PHS Act;

(2) $630,000,000 to "Disease Control, Research, and Training" for an additional amount to carry out sections 306, 317(k)(2)(A), 317G, 399U, 1706, and 2821 of the PHS Act; sections 4001, 4004, 4201, and 4301 of the Patient Protection and Affordable Care Act; Public Law 99–252; Public Law 98–474; the immunization program under authority of section 317(a), (j), (k)(1), (l), and (m) of the PHS Act; the Environmental Public Health Tracking Program under authority of section 301 of the PHS Act; the Racial and Ethnic Approaches to Community Health program under authority of section 1703 of the PHS Act; the activities of the Office of Smoking and Health under authority of sections 317 and 1701 of the PHS Act; and State grants for chronic disease activities under section 317(k)(2)(B) of the PHS Act;

(3) $88,000,000 to "Substance Abuse and Mental Health Services" for an additional amount for suicide prevention activities and to carry out sections 505, 509, and 520(k) of the PHS Act; and

(4) $12,000,000 to "Healthcare Research and Quality" for an additional amount to carry out sections 902(a)(7) and 915(a) of the PHS Act.

(b) Not later than 60 days after enactment of this Act, the Secretary of Health and Human Services shall submit an operating plan to the Committees on Appropriations detailing the amounts allocated to the programs identified in subsection (a).

SEC. 2825. Notwithstanding section 206 of division D of Public Law 111–117, not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985) that are appropriated by this Act for the current fiscal year for agencies of the Department of Health and Human Services for which funds were provided in such division may be transferred among appropriations, but no such appropriation to which such funds are transferred may be increased by more than 3 percent by any such transfer: *Provided*, That the transfer authority granted by this section shall be available only to meet unanticipated needs and shall not be used to create any new program or to fund any project or activity for which no funds are provided in this Act: *Provided further*, That the Committees on Appropriations are notified at least 15 days in advance of any transfer.

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

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

SEC. 2828. Federal administrative costs for activities authorized subsequent to enactment of division D of Public Law 111–117 may be funded from the relevant appropriations provided in this Act for administrative costs.

SEC. 2829. Notwithstanding section 1101, the level for "Department of Education, School Improvement Programs" shall be $3,540,003,000, of which $3,358,993,000 shall become available on July 1, 2011, and remain available through September 30, 2012, and for purposes of this section, up to $11,500,000 of the funds available for the Foreign Language Assistance Program shall be available for activities described in the twelfth proviso under such heading in division D of Public Law 111–117.

SEC. 2830. (a) Notwithstanding section 1101, the level for "Department of Education, Innovation and Improvement" shall be $1,870,123,000, of which $602,628,000 shall be available to carry out part D of title V of the Elementary and Secondary Education Act of 1965, including up to $25,000,000 of such funds to remain available through September 30, 2012, and of which not more than $550,000,000 may be used to make awards to States under section 14006 of division A of Public Law 111–5 in accordance with the applicable requirements of that section.

(b) The seventeenth and eighteenth provisos under the heading "Department of Education, Innovation and Improvement" in divi-

sion D of Public Law 111–117 shall not apply to funds appropriated by this Act.

SEC. 2831. Notwithstanding section 1101, the level for "Department of Education, Safe Schools and Citizenship Education" shall be $384,841,000, of which (1) funds provided to carry out subpart 3 of part C of title II of the Elementary and Secondary Education Act of 1965 ("ESEA") shall be available to the Secretary of Education for competitive grants to nonprofit organizations that have demonstrated effectiveness in the development and implementation of civic learning programs, with priority for those programs that demonstrate innovation, scalability, accountability, and a focus on underserved populations; and (2) no funds shall be available for activities authorized under subpart 3 of part D of title V of the ESEA.

SEC. 2832. Notwithstanding section 1101, the level for "Department of Education, Rehabilitation Services and Disability Research" shall be $3,501,766,000.

SEC. 2833. Within the funds provided by section 1101 for "Department of Education, Special Institutions for Persons with Disabilities, National Technical Institute for the Deaf", amounts designated for construction shall also be available for any other authorized purpose under such heading.

SEC. 2834. Notwithstanding section 1101, the level for "Department of Education; Career, Technical, and Adult Education" shall be $1,200,447,000, of which $1,196,047,000 shall become available on July 1, 2011, and shall remain available through September 30, 2012.

SEC. 2835. (a) Notwithstanding section 1101, the level for "Department of Education, Student Financial Assistance" shall be $24,963,809,000.

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

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

SEC. 2836. Notwithstanding sections 1101 and 1103, the level for "Department of Education, Student Aid Administration" shall be $994,000,000, which shall remain available through September 30, 2012.

SEC. 2837. Notwithstanding section 1101, the level for "Department of Education, Higher Education" shall be $2,177,915,000.

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

SEC. 2839. Notwithstanding section 1101, the level for "Department of Education, Departmental Management, Program Administration" shall be $465,000,000, of which up to $17,000,000 shall remain available until expended for relocation of, and renovation of buildings occupied by, Department staff.

SEC. 2840. Notwithstanding section 1101, the level for "Corporation for National and Community Service, National Service Trust" shall be $217,000,000.

SEC. 2841. Notwithstanding section 1101, the level for "Corporation for Public Broadcasting" for fiscal year 2011 shall be $36,000,000 and shall not be available for fiscal stabilization grants and the public radio interconnection system.

SEC. 2842. Notwithstanding section 1101, the level for "Federal Mine Safety and Health Review Commission, Salaries and Expenses" shall be $15,706,000.

SEC. 2843. Notwithstanding section 1101, the level for "Institute of Museum and Library Services, Office of Museum and Library Services: Grants and Administration" shall be $265,869,000.

SEC. 2844. Notwithstanding section 1101, the level for "Medicare Payment Advisory Commission, Salaries and Expenses" shall be $12,850,000.

SEC. 2845. Notwithstanding section 1101, the level for "Railroad Retirement Board, Dual Benefits Payments Account" shall be $57,000,000.

SEC. 2846. (a) Notwithstanding section 1101, the level for "Social Security Administration, Payments to Social Security Trust Funds" shall be $21,404,000, and in addition may be used to carry out section 217(g) of the Social Security Act.

(b) Notwithstanding section 1101, the level for the first paragraph under the heading "Social Security Administration, Limitation on Administrative Expenses" shall be $11,240,500,000.

(c) Notwithstanding section 1101, the level for the first paragraph under the heading "Social Security Administration, Supplemental Security Income Program" shall be $40,320,200,000, of which $3,587,200,000 shall be for administrative expenses.

(d) Upon enactment of this Act, up to $325,000,000 of the remaining unobligated balances of funds appropriated for "Social Security Administration, Limitation on Administrative Expenses" for fiscal years 2010 and prior years (other than funds appropriated in Public Law 111–5) shall be made part of and merged with other funds in such account available without fiscal year limitation for investment in information technology and telecommunications hardware and software infrastructure, and of such funds available without fiscal year limitation for investment in information technology and telecommunications hardware and software infrastructure $325,000,000 is rescinded.

SEC. 2847. Section 6402(f)(3)(C) of the Internal Revenue Code of 1986, as amended by section 801(a)(3)(C) of the Claims Resolution Act of 2010, is further amended by striking the word "not".

CHAPTER 9—LEGISLATIVE BRANCH

SEC. 2901. Notwithstanding section 1101, the level for each of the following accounts of the Senate shall be as follows: "Salaries, Officers and Employees", $185,982,000; "Salaries, Officers and Employees, Office of the Sergeant at Arms and Doorkeeper", $77,000,000; "Contingent Expenses of the Senate, Secretary of the Senate", $6,200,000; and "Contingent Expenses of the Senate, Sergeant at Arms and Doorkeeper of the Senate", $142,401,000.

SEC. 2902. Section 8 of the Legislative Branch Appropriations Act, 1990 (31 U.S.C. 1535 note) is amended by striking paragraph (3) and inserting the following: "(3) Agreement under paragraph (1) shall be in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate.".

SEC. 2903. Notwithstanding section 1101, the level for "House of Representatives, Salaries and Expenses" shall be $1,371,172,000, to be allocated in accordance with an allocation plan submitted by the Chief Administrative Officer of the House of Representatives and approved by the Committee on Appropriations of the House of Representatives.

SEC. 2904. Notwithstanding section 1101, the level for each of the following accounts of the Capitol Police shall be as follows: "Salaries", $279,224,000, of which $1,945,000 shall remain available until September 30, 2014; and "General Expenses", $57,985,000.

SEC. 2905. (a) Notwithstanding section 1018(d) of the Legislative Branch Appropriations Act, 2003 (2 U.S.C. 1907(d)), the use of any funds appropriated to the United States Capitol Police during fiscal year 2003 for transfer relating to the Truck Interdiction Monitoring Program to the working capital fund established under section 328 of title 49, United States Code, is ratified.

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

SEC. 2906. Notwithstanding section 1101, the level for "Congressional Budget Office, Salaries and Expenses" shall be $46,905,000.

SEC. 2907. Notwithstanding section 1101, the level for each of the following accounts of the Architect of the Capitol shall be as follows: "General Administration", $109,294,000, of which $7,499,000 shall remain available until September 30, 2015; "Capitol Building", $54,616,000, of which $27,226,000 shall remain available until September 30, 2015; "Capitol Grounds", $9,988,000; "Senate Office Buildings", $81,112,000, of which $19,474,000 shall remain available until September 30, 2015; "House Office Buildings", $75,619,000, of which $25,323,000 shall remain available until September 30, 2015; "Capitol Power Plant", $109,069,000, of which $15,100,000 shall remain available until September 30, 2015; "Library Buildings and Grounds", $44,396,000, of which $17,457,000 shall remain available until September 30, 2015; "Capitol Police Buildings, Grounds and Security", $26,266,000, of which $6,436,000 shall remain available until September 30, 2015; "Botanic Garden", $13,834,000, of which $1,505,000 shall remain available until September 30, 2015; and "Capitol Visitor Center", $22,771,000. In addition, notwithstanding section 1101, $40,000,000, to remain available until expended, shall be available under "Architect of the Capitol, House Office Buildings" for a payment to the House Historic Buildings Revitalization Trust Fund.

SEC. 2908. (a) Notwithstanding section 1101, the level for "Government Accountability Office, Salaries and Expenses" shall be $558,430,000.

(b) Notwithstanding section 1101, the amount applicable under the first proviso under the heading "Government Accountability Office, Salaries and Expenses" in the Legislative Branch Appropriations Act, 2010 (Public Law 111–68) shall be $9,400,000, the amount applicable under the second proviso under such heading shall be $3,100,000, and the amount applicable under the third proviso under such heading shall be $7,000,000.

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

SEC. 3001. Notwithstanding section 1101, the level for each of the following accounts of the Department of Defense for projects and activities included in the most recently submitted future years defense program or that are necessary to support overseas contingency operations shall be as follows: "Military Construction, Army", $4,885,000,000; "Military Construction, Navy and Marine Corps", $3,517,000,000; "Military Construction, Air Force", $1,592,000,000; "Military Construction, Defense-Wide", $3,095,000,000; "Military Construction, Army National Guard", $874,000,000; "Military Construction, Air National Guard", $177,000,000; "Military Construction, Army Reserve", $318,000,000; "Military Construction, Navy Reserve", $62,000,000; "Military Construction, Air Force Reserve", $8,000,000; "Family Housing Construction, Army", $92,000,000; "Family Housing Construction, Navy and Marine Corps", $186,000,000; "Family Housing Construction, Air Force", $78,000,000; and "Family Housing Construction, Defense-Wide", $0. Within 45 days of the enactment of this section, the Department of Defense shall submit a project-level expenditure plan for fiscal year 2011 for the accounts funded in this section.

SEC. 3002. Notwithstanding section 1111, of the total amount specified in section 3001 for "Military Construction, Army", "Military Construction, Air Force", and "Military Construction, Defense-Wide", $1,257,000,000 for Overseas Deployments and Other Activities is designated as an emergency requirement and necessary to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SEC. 3003. Notwithstanding section 1101, the level for each of the following accounts of the Department of Defense for projects and activities authorized by law shall be as follows: "North Atlantic Treaty Organization Security Investment Program", $259,000,000; "Homeowners Assistance Fund", $17,000,000; "Chemical Demilitarization Construction, Defense-Wide", $125,000,000; "Department of Defense Base Closure Account 1990", $360,000,000; and "Department of Defense Base Closure Account 2005", $2,354,000,000.

SEC. 3004. Notwithstanding any other provision of this Act, the following provisions included in title I of division E of Public Law 111–117 shall not apply to funds appropriated by this Act: the first, second, and last provisos, and the set-aside of $350,000,000, under the heading "Military Construction, Army"; the first and last provisos under the heading "Military Construction, Navy and Marine Corps"; the first, second, and last provisos under the heading "Military Construction, Air Force"; the second, third, fourth, and last provisos under the heading "Military Construction, Defense-Wide"; the first, second, and last provisos, and the set-aside of $30,000,000, under the heading "Military Construction, Army National Guard"; the first, second, and last provisos, and the set-aside of $30,000,000, under the heading "Military Construction, Air National Guard"; the first, second, and last provisos, and the set-aside of $30,000,000, under the heading "Military Construction, Army Reserve"; the first, second, and last provisos, the set-aside of $20,000,000, and the set-aside of $35,000,000, under the heading

"Military Construction, Navy Reserve"; the first, second, and last provisos, and the set-aside of $55,000,000, under the heading "Military Construction, Air Force Reserve"; the proviso under the heading "Family Housing Construction, Army"; the proviso under the heading "Family Housing Construction, Navy and Marine Corps"; the proviso under the heading "Family Housing Construction, Air Force"; the proviso under the heading "Family Housing Construction, Defense-Wide"; and the proviso under the heading "Chemical Demilitarization Construction, Defense-Wide".

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

SEC. 3006. Notwithstanding any other provision of this Act, the following provisions included in title IV of division E of Public Law 111–117 shall not apply to funds appropriated by this Act: the proviso under "Military Construction, Army"; and the proviso under "Military Construction, Air Force".

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

SEC. 3008. Notwithstanding any other provision of law, funds made available to "North Atlantic Treaty Organization Security Investment Program" by this chapter may be obligated and expended for purposes of section 2806 of title 10, United States Code, and sections 2501 and 2502 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84).

SEC. 3009. Notwithstanding section 1101, the level for "Department of Veterans Affairs, Departmental Administration, General Operating Expenses" shall be $2,546,276,000, of which not less than $2,148,776,000 shall be for the Veterans Benefits Administration.

SEC. 3010. Notwithstanding section 1101, the level for "Department of Veterans Affairs, Departmental Administration, Information Technology Systems" shall be $3,162,501,000.

SEC. 3011. Notwithstanding section 1101, the level for "Department of Veterans Affairs, Departmental Administration, Construction, Major Projects" shall be $1,151,036,000. Within 30 days of the enactment of this section, the Department shall submit to the Committees on Appropriations of the House of Representatives and the Senate a spending plan for fiscal year 2011 at a level of detail below the account level.

SEC. 3012. Notwithstanding section 1101, the level for "Department of Veterans Affairs, Departmental Administration, Construction, Minor Projects" shall be $467,700,000.

SEC. 3013. Notwithstanding section 1101, the level for "Department of Veterans Affairs, Departmental Administration, Grants for Construction of State Extended Care Facilities" shall be $85,000,000.

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

SEC. 3015. Notwithstanding section 1101, the level for "Department of Defense—Civil, Cemeterial Expenses, Army, Salaries and Expenses", shall be $50,340,000.

SEC. 3016. Notwithstanding section 1101, the level for "Armed Forces Retirement Home, Trust Fund", shall be $71,200,000, of which $2,000,000 shall be for renovation of physical plants.

SEC. 3017. (a) Of the funds appropriated in division E of Public Law 111–117, the following amounts which became available on October 1, 2010, are hereby rescinded from the following accounts of the Department of Veterans Affairs in the amounts specified: "Medical services", $1,015,000,000; "Medical support and compliance", $145,000,000; and "Medical facilities", $145,000,000.

(b) An additional amount is appropriated to the following accounts of the Department of Veterans Affairs in the amounts specified, to remain available until September 30, 2012: "Medical services", $1,015,000,000; "Medical support and compliance", $145,000,000; and "Medical facilities", $145,000,000.

SEC. 3018. Amounts provided to the Department of Veterans Affairs for "Medical services", "Medical support and compliance", "Medical facilities", "Construction, minor projects", and "Information technology systems" for fiscal year 2011 shall be available, through the date specified by section 1106 of this Act: (1) for transfer to the Joint Department of Defense-Department of Veterans Affairs Medical Facility Demonstration Fund, established by section 1704 of Public Law 111–84, and (2) for operations of the integrated Captain James A. Lovell Federal Health Care Center, consisting of the North Chicago Veteran Affairs Medical Center, and Navy Ambulatory Care Center, and supporting facilities designated as a combined Federal medical facility as described by section 706 of Public Law 110–417.

SEC. 3019. Such sums as may be deposited to the Medical Care Collections Fund pursuant to section 1729A of title 38, United States Code, for health care provided at the Captain James A. Lovell Federal Health Care Center shall also be available: (1) for transfer to the Joint Department of Defense-Department of Veterans Affairs Medical Facility Demonstration Fund, established by section 1704 of Public Law 111–84, and (2) for operations of the integrated Captain James A. Lovell Federal Health Care Center, consisting of the North Chicago Veteran Affairs Medical Center and Navy Ambulatory Care Center, and supporting facilities designated as a combined Federal medical facility as described by section 706 of Public Law 110–417.

CHAPTER 11—STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS

SEC. 3101. For purposes of this chapter, the term "division F of Public Law 111–117" means the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010 (division F of Public Law 111–117).

SEC. 3102. Notwithstanding section 1101, the level for each of the following accounts shall be as follows: "Administration of Foreign Affairs, Diplomatic and Consular Programs", $8,971,529,000; "Administration of Foreign Affairs, Civilian Stabilization Initiative", $35,000,000; "International Organizations, Contributions to International Organizations", $1,575,430,000; "International Organizations, Contributions for International Peacekeeping Activities", $2,105,000,000; "International Commissions, International Boundary and Water Commission, United States and Mexico, Construc-

tion", $26,900,000; "International Commissions, International Fisheries Commissions", $51,000,000; "Related Agency, Broadcasting Board of Governors, Broadcasting Capital Improvements", $6,875,000; "Related Programs, United States Institute of Peace", $44,050,000, which shall not be used for construction activities; "United States Agency for International Development, Funds Appropriated to the President, Civilian Stabilization Initiative", $15,000,000; "United States Agency for International Development, Funds Appropriated to the President, Capital Investment Fund", $173,000,000; "Bilateral Economic Assistance, Funds Appropriated to the President, International Fund for Ireland", $15,000,000; "Bilateral Economic Assistance, Funds Appropriated to the President, Democracy Fund", $115,000,000, of which $68,500,000 shall be made available for the Human Rights and Democracy Fund of the Bureau of Democracy, Human Rights and Labor, Department of State, and $46,500,000 shall be made available for the Office of Democracy and Governance of the Bureau for Democracy, Conflict, and Humanitarian Assistance, United States Agency for International Development; "Bilateral Economic Assistance, Funds Appropriated to the President, Assistance for Europe, Eurasia and Central Asia", $709,000,000; "Bilateral Economic Assistance, Department of the Treasury, Debt Restructuring", $56,000,000; "Multilateral Assistance, Funds Appropriated to the President, International Development Association", $1,235,000,000; "Multilateral Assistance, Funds Appropriated to the President, Contribution to the Inter-American Development Bank", $21,000,000; "Multilateral Assistance, Funds Appropriated to the President, Contribution to the African Development Fund", $150,000,000; "International Security Assistance, Department of State, Nonproliferation, Anti-terrorism, Demining and Related Programs", $740,000,000; "International Security Assistance, Department of State, Peacekeeping Operations", $305,000,000; "International Security Assistance, Funds Appropriated to the President, International Military Education and Training", $107,000,000; "International Security Assistance, Funds Appropriated to the President, Pakistan Counterinsurgency Capability Fund", $700,000,000, which shall remain available until September 30, 2012, and shall be available to the Secretary of State under the terms and conditions provided for this Fund in Public Law 111–32 and Public Law 111–212; and "International Security Assistance, Funds Appropriated to the President, Foreign Military Financing Program", $5,440,000,000, of which not less than $3,000,000,000 shall be available for grants only for Israel and $1,300,000,000 shall be available for grants only for Egypt and $300,000,000 shall be available for assistance for Jordan: *Provided*, That the dollar amount in the fourth proviso under the heading "International Security Assistance, Funds Appropriated to the President, Foreign Military Financing Program" in division F of Public Law 111–117 shall be deemed to be $789,000,000 for the purpose of applying funds appropriated under such heading by this Act.

SEC. 3103. Notwithstanding section 1101, the dollar amount in the seventh proviso under the heading "Bilateral Economic Assistance, Funds Appropriated to the President, Economic Support Fund" in division F of Public Law 111–117 shall be deemed to be $200,000,000 for the purpose of applying funds appropriated under

such heading by this Act: *Provided*, That the ninth through the fourteenth provisos under the heading "Bilateral Economic Assistance, Funds Appropriated to the President, Economic Support Fund" in division F of Public Law 111–117 shall not apply to assistance for Afghanistan under this Act: *Provided further*, That the dollar amount in section 7042(f)(1) in division F of Public Law 111–117 shall be deemed to be $550,400,000.

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

SEC. 3105. (a) In addition to amounts otherwise made available in this Act, $12,000,000 is appropriated for "Bilateral Economic Assistance, Funds Appropriated to the President, Economic Support Fund" for activities specified in section 7071(j) of division F of Public Law 111–117.

(b) For purposes of the amount made available by this Act for "Export-Import Bank of the United States, Administrative Expenses", project specific transaction costs, including direct and indirect costs incurred in claims settlements, and other costs for systems infrastructure directly supporting transactions, shall not be considered administrative expenses.

(c) Of the unobligated balances available from funds appropriated under the heading "Export and Investment Assistance, Export-Import Bank of the United States, Subsidy Appropriation" in the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2009 (division H, Public Law 111–8) and under such heading in prior Acts making appropriations for the Department of State, foreign operations, and related programs, $160,000,000 is rescinded.

SEC. 3106. (a) Notwithstanding any other provision of this Act, the dollar amounts under paragraphs (1) through (4) under the heading "Administration of Foreign Affairs, Diplomatic and Consular Programs" in division F of Public Law 111–117 shall not apply to funds appropriated by this Act: *Provided*, That the dollar amounts to be derived from fees collected under paragraph (5)(A) under such heading shall be "$1,702,904" and "$505,000", respectively.

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

(1) Section 7034(l).

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

(3) In section 7045:

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

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

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

(D) Subsection (h).

(4) Section 7070(b).

(5) The third proviso under the heading "Administration of Foreign Affairs, Civilian Stabilization Initiative".

(6) The fourth proviso under the heading "Bilateral Economic Assistance, Funds Appropriated to the President, Assistance for Europe, Eurasia and Central Asia".

SEC. 3107. (a) Section 1115(d) of Public Law 111–32 is amended by striking "October 1, 2010" and inserting "October 1, 2011".

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

(c) Section 61(a)(2) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2733(a)(2)) is amended by striking "October 1, 2010" and inserting "October 1, 2011".

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

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

(f) The authority provided by section 1334 of the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6553) shall remain in effect until September 30, 2011.

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

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

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

(A) in subsection (b)(3), by striking "and 2010" and inserting "2010, and 2011"; and

(B) in subsection (e), by striking "2010" each place it appears and inserting "2011"; and

(2) in section 599E (8 U.S.C. 1255 note) in subsection (b)(2), by striking "2010" and inserting "2011".

SEC. 3108. (a) The second proviso under the heading "International Security Assistance, Department of State, Peacekeeping Operations" in division F of Public Law 111–117 shall be applied by substituting the following: "*Provided further*, That up to $55,918,000 may be used to pay assessed expenses of international peacekeeping activities in Somalia, except that up to an additional $35,000,000 may be made available for such purpose subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations:".

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

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

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

(c) Section 7043 of division F of Public Law 111–117 shall be applied to funds appropriated by this Act by substituting the following for subsection (b):

"(b) LIMITATION.—None of the funds appropriated or otherwise made available in title VI of this Act under the heading 'Export-Import Bank of the United States' may be used by the Export-Import Bank of the United States to provide any new financing (including loans, guarantees, other credits, insurance, and reinsurance) to any person that is subject to sanctions under paragraph

(2) or (3) of section 5(a) of the Iran Sanctions Act of 1996 (Public Law 104–172).".

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

"(2) Of the funds appropriated under the heading 'Debt Restructuring' in this Act, up to $36,000,000 may be made available for the United States share of an increase in the resources of the Fund for Special Operations of the Inter-American Development Bank in furtherance of providing debt relief to Haiti in view of the Cancun Declaration of March 21, 2010.".

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

(2) The dollar amount in the sixteenth proviso under the heading "Bilateral Economic Assistance, Funds Appropriated to the President, Economic Support Fund" in division F of Public Law 111–117 shall be deemed to be "$195,000,000".

(3) The dollar amount in the seventh proviso of the first paragraph under the heading "International Security Assistance, Funds Appropriated to the President, Foreign Military Financing Program" in division F of Public Law 111–117 shall be deemed to be "$44,500,000" for the purpose of applying funds appropriated under such headings by this Act.

(f) The second proviso of section 7081(d) of division F of Public Law 111–117 is amended to read as follows: ": *Provided further*, That funds appropriated under title III of this Act for tropical forest programs shall be used for purposes including to implement and enforce section 8204 of Public Law 110–246, shall not be used to support or promote the expansion of industrial scale logging into primary tropical forests, and shall be subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations".

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

(b) LIMITATION.—None of the funds appropriated or otherwise made available by this Act under the headings "Economic Support Fund" and "International Narcotics Control and Law Enforcement" may be obligated for assistance for Afghanistan until the Secretary of State, in consultation with the Administrator of the United States Agency for International Development (USAID), certifies and reports to the Committees on Appropriations that—

(1) The Government of Afghanistan is—

(A) demonstrating a commitment to reduce corruption and improve governance, including by investigating, prosecuting, sanctioning and/or removing corrupt officials from office and to implement financial transparency and accountability measures for government institutions and officials (including the Central Bank) as well as to conduct oversight of public resources;

(B) taking significant steps to facilitate active public participation in governance and oversight; and

(C) taking credible steps to protect the internationally recognized human rights of Afghan women.

(2) There is a unified United States Government anti-corruption strategy for Afghanistan that is adequately funded, and is being implemented in conjunction with relevant Afghan authorities.

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

(A) the High Office of Oversight;

(B) the Control and Audit Office;

(C) the Afghan Criminal Justice Task Force;

(D) the Afghan Judicial Security Unit;

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

(F) the training and mentoring of judicial personnel;

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

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

(4) Representatives of Afghan national, provincial or local governments, local communities and civil society organizations, as appropriate, will be consulted and participate in the design of programs, projects, and activities, including participation in implementation and oversight, and the development of specific benchmarks to measure progress and outcomes.

(5) Funds will be used to train and deploy additional United States Government direct-hire personnel to improve monitoring and control of assistance to ensure that funds are used for the intended purpose and do not support illicit and/or corrupt activities.

(6) A framework and methodology is being utilized to assess national, provincial, local and sector level fiduciary risks relating to public financial management of United States Government assistance.

(c) DIRECT GOVERNMENT-TO-GOVERNMENT ASSISTANCE.—

(1) Funds appropriated or otherwise made available by this Act for assistance for Afghanistan may not be made available for direct government-to-government assistance unless the Secretary of State certifies to the Committees on Appropriations that the relevant Afghan implementing agency has been assessed and considered qualified to manage such funds and the Government of the United States and the Government of Afghanistan have agreed, in writing, to clear and achievable goals and objectives for the use of such funds, and have established mechanisms within each implementing agency to ensure that such funds are used for the purposes for which they were intended: *Provided*, That the Secretary of State should suspend any direct government-to-government assistance to an implementing agency if the Secretary has credible information of misuse of such funds by any such agency: *Provided further*, That any such assistance shall be subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations.

(2) Funds appropriated or otherwise made available by this Act for assistance for Afghanistan may be made available as a United States contribution to the Afghanistan Reconstruction Trust Fund (ARTF) unless the Secretary of State determines and reports to the Committees on Appropriations that the World Bank Monitoring Agent of the ARTF is unable to conduct its financial control and audit responsibilities due to restrictions on security personnel by the Government of Afghanistan.

(d) ASSISTANCE FOR OPERATIONS.—

(1) Funds appropriated under the headings "Economic Support Fund" and "International Narcotics Control and Law Enforcement" in this Act that are available for assistance for Afghanistan—

(A) shall be made available, to the maximum extent practicable, in a manner that emphasizes the participation of Afghan women, and directly improves the security, economic and social well-being, and political status, and protects the rights of, Afghan women and girls and complies with sections 7062 and 7063 of division F of Public Law 111–117, including support for the Afghan Independent Human Rights Commission, the Afghan Ministry of Women's Affairs, and women-led nongovernmental organizations;

(B) may be made available for a United States contribution to an internationally-managed fund to support the reconciliation with and disarmament, demobilization and reintegration into Afghan society of former combatants who have renounced violence against the Government of Afghanistan: *Provided*, That funds may be made available to support reconciliation and reintegration activities only if—

(i) Afghan women are participating at national, provincial and local levels of government in the design, policy formulation and implementation of the reconciliation or reintegration process, and such process upholds steps taken by the Government of Afghanistan to protect the internationally recognized human rights of Afghan women; and

(ii) such funds will not be used to support any pardon or immunity from prosecution, or any position in the Government of Afghanistan or security forces, for any leader of an armed group responsible for crimes against humanity, war crimes, or other violations of internationally recognized human rights.

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

(D) should be made available, notwithstanding any provision of law that restricts assistance to foreign countries, for cross border stabilization and development programs between Afghanistan and Pakistan or between either country and the Central Asian republics.

(2) Programs and activities funded under titles III and IV of this Act that provide training for foreign police, judicial, and military personnel shall address, where appropriate, gender-based violence.

(3) The authority contained in section 1102(c) of Public Law 111–32 shall continue in effect during fiscal year 2011 and shall apply as if included in this Act.

(4) The Coordinator for Rule of Law at the United States Embassy in Kabul, Afghanistan shall be consulted on the use of all funds appropriated by this Act for rule of law programs in Afghanistan.

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

(6) The Secretary of State, after consultation with the USAID Administrator, shall submit to the Committees on Appropriations not later than 45 days after enactment of this Act, and prior to the initial obligation of funds, a detailed spending plan for assistance for Afghanistan which shall include clear and achievable goals, benchmarks for measuring progress, and expected results: *Provided*, That such plan shall not be considered as meeting the notification requirements under section 7015 of division F of Public Law 111–117 or under section 634A of the Foreign Assistance Act of 1961.

(7) Any significant modification to the scope, objectives, or implementation mechanisms of United States assistance programs in Afghanistan shall be subject to prior consultation with, and the regular notification procedures of, the Committees on Appropriations, except that the prior consultation requirement may be waived in a manner consistent with section 7015(e) of division F of Public Law 111–117.

(e) OVERSIGHT.—

(1) The Special Inspector General for Afghanistan Reconstruction, the Inspector General of the Department of State and the Inspector General of USAID, shall jointly develop and submit to the Committees on Appropriations within 45 days of enactment of this Act a coordinated audit and inspection plan of United States assistance for, and civilian operations in, Afghanistan.

(2) Of the funds appropriated in this Act under the heading "Economic Support Fund" for assistance for Afghanistan, $3,000,000 shall be transferred to, and merged with, funds made available under the heading "Office of Inspector General" in title I of this Act, for increased oversight of programs in Afghanistan and shall be in addition to funds otherwise available for such purposes: *Provided*, That $1,500,000 shall be for the Special Inspector General for Afghanistan Reconstruction.

(3) Of the funds appropriated in this Act under the heading "Economic Support Fund" for assistance for Afghanistan, $1,500,000 shall be transferred to, and merged with, funds appropriated under the heading "Office of Inspector General" in title II of this Act for increased oversight of programs in Afghanistan and shall be in addition to funds otherwise available for such purposes.

(f) MODIFICATION TO PRIOR PROVISIONS.—

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

"(C) taking credible steps to protect the internationally recognized human rights of Afghan women.".

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

"(1) Afghan women are participating at national, provincial and local levels of government in the design, policy formulation and implementation of the reconciliation or reintegration process, and such process upholds steps taken by the Government of Afghanistan to protect the internationally recognized human rights of Afghan women; and".

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

"(1) based on information available to the Secretary, the Independent Electoral Commission has no members or other employees who participated in, or helped to cover up, acts of fraud in the 2009 presidential election in Afghanistan, and the Electoral Complaints Commission is a genuinely independent body with all the authorities that were invested in it under Afghan law as of December 31, 2009; and".

SEC. 3110. In addition to amounts otherwise made available by this Act, $100,000,000, to remain available until expended, is appropriated for payment as a contribution to a global food security fund by the Secretary of the Treasury.

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

(b) LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS.—The United States Governor of the Asian Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $2,558,048,769.

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

"NINTH REPLENISHMENT

"SEC. 33. (a) The United States Governor of the Bank is authorized to contribute, on behalf of the United States, $461,000,000 to the ninth replenishment of the resources of the Fund, subject to obtaining the necessary appropriations.

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

"FIFTH CAPITAL INCREASE

"SEC. 34. (a) Subscription Authorized.

"(1) The United States Governor of the Bank may subscribe on behalf of the United States to 1,104,420 additional shares of the capital stock of the Bank.

"(2) Any subscription by the United States to capital stock of the Bank shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

"(b) Authorization of Appropriations—

"(1) In order to pay for the increase in the United States subscription to the Bank provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $13,323,173,083, for payment by the Secretary of the Treasury.

"(2) Of the amount authorized to be appropriated under paragraph (1)—

"(A) $532,929,240 is authorized to be appropriated for paid in shares of the Bank; and

"(B) $12,790,243,843 is authorized to be appropriated for callable shares of the Bank, for payment by the Secretary of the Treasury.".

CHAPTER 12—TRANSPORTATION, AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES

SEC. 3201. Notwithstanding section 1101, the level for "Department of Transportation, Federal Aviation Administration, Operations" shall be $9,542,983,000, of which $4,559,000,000 shall be derived from the Airport and Airway Trust Fund, of which no less than $7,473,299,000 shall be for air traffic organization activities; no less than $1,253,020,000 shall be for aviation regulation and certification activities; not to exceed $15,237,000 shall be available for commercial space transportation activities; not to exceed $113,681,000 shall be available for financial services activities; not to exceed $100,428,000 shall be available for human resources program activities; not to exceed $341,977,000 shall be available for region and center operations and regional coordination activities; not to exceed $196,063,000 shall be available for staff offices; and not to exceed $49,278,000 shall be available for information services.

SEC. 3202. The amounts included under the heading "Department of Transportation, Federal Aviation Administration, Grants-in-Aid for Airports (Liquidation of Contract Authorization)" in division A of Public Law 111–117 shall be applied to funds appropriated by this Act by substituting "$3,550,000,000" for "$3,000,000,000".

SEC. 3203. Notwithstanding section 1101, the level for "Department of Transportation, Federal Highway Administration, Surface Transportation Priorities" shall be $0.

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

SEC. 3205. Of the amount made available for "Department of Transportation, Motor Carrier Safety Grants, (Liquidation of Contract Authorization), (Limitation on Obligations), (Highway Trust Fund)" for the commercial driver's license information system modernization program, $3,000,000 shall be made available for audits of new entrant motor carriers to carry out section 4107(b) of Public Law 109–59, and 31104(a) of title 49, United States Code, and $5,000,000 shall be made available for the commercial driver's license improvements program to carry out section 31313 of title 49, United States Code.

SEC. 3206. Notwithstanding section 1101, the level for "Department of Transportation, Federal Railroad Administration, Safety and Operations" shall be $176,950,000.

SEC. 3207. Notwithstanding section 1101, the level for "Department of Transportation, Federal Railroad Administration, Capital Assistance for High Speed Rail Corridors and Intercity Passenger Rail Service" shall be $1,000,000,000.

SEC. 3208. Notwithstanding section 1101, the level for "Department of Transportation, Maritime Administration, Operations and Training" shall be $155,750,000, of which $11,240,000 shall remain available until expended for maintenance and repair of training ships at State Maritime Academies, and of which $15,000,000 shall remain available until expended for capital improvements at the United States Merchant Marine Academy, of which $59,057,000 shall be available for operations at the United States Merchant Marine Academy, and of which $6,000,000 shall remain available until expended for the Secretary's reimbursement of overcharged midshipmen fees for academic years 2003–2004 through 2008–2009 and such action shall be final and conclusive.

SEC. 3209. Notwithstanding section 1101, the level for each of the following accounts under the heading "Department of Transportation, Pipeline and Hazardous Materials Safety Administration" shall be as follows: "Operational Expenses (Pipeline Safety Fund)", $21,496,000; "Hazardous Materials Safety", $39,098,000, of which $1,699,000 shall remain available until September 30, 2013; and "Pipeline Safety (Pipeline Safety Fund) (Oil Spill Liability Trust Fund)", $106,919,000, of which $18,905,000 shall be derived from the Oil Spill Liability Trust Fund and shall remain available until September 30, 2013, and of which $88,014,000 shall be derived from the Pipeline Safety Fund, of which $47,332,000 shall remain available until September 30, 2013.

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

SEC. 3211. Notwithstanding section 1101, the level for "Department of Housing and Urban Development, Personnel Compensation and Benefits, Housing" shall be $390,885,000.

SEC. 3212. Notwithstanding section 1101, the level for "Department of Housing and Urban Development, Personnel Compensation and Benefits, Office of the Government National Mortgage Association" shall be $14,000,000.

SEC. 3213. Notwithstanding section 1101, the level for "Department of Housing and Urban Development, Public and Indian Housing, Tenant-Based Rental Assistance" shall be $14,863,998,000, to remain available until expended, shall be available on October 1, 2010 (in addition to the $4,000,000,000 previously appropriated under such heading that will become available on October 1, 2010), and notwithstanding section 1109, an additional $4,000,000,000, to remain available until expended, shall be available on October 1, 2011: *Provided*, That of the amounts available for such heading, $16,993,998,000 shall be for activities specified in paragraph (1) and $145,000,000 shall be for activities specified in paragraph (2) under such heading of division A of Public Law 111–117: *Provided further*, That of the amounts made available for activities under paragraph (2) under such heading of division A of Public Law 111–

117, $25,000,000 shall be available to provide tenant protection assistance, not otherwise provided under this paragraph, to residents residing in low-vacancy areas and who may have to pay rents greater than 30 percent of household income, as the result of (1) the maturity of a HUD-insured, HUD-held or section 202 loan that requires the permission of the Secretary prior to loan payment, (2) the expiration of a rental assistance contract for which the tenants are not eligible for enhanced voucher or tenant protection assistance under existing law, or (3) the expiration of affordability restrictions accompanying a mortgage or preservation program administered by the Secretary: *Provided further*, That such tenant protection assistance made available under the previous proviso may be provided under the authority of section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1937f(t)): *Provided further*, That the Secretary shall issue guidance to implement the previous two provisos, including but not limited to requirements for defining eligible at-risk households, within 120 days of the enactment of this Act.

SEC. 3214. The seventh proviso in paragraph (1) under the heading "Department of Housing and Urban Development, Public and Indian Housing, Tenant-Based Rental Assistance" in division A of Public Law 111–117 shall be applied in fiscal year 2011 by inserting before the colon at the end the following: "; (5) for one-time adjustments of renewal funding for public housing agencies in receivership with approved fungibility plans for calendar year 2009 as authorized in section 11003 of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Public Law 110–329); or (6) to adjust allocations for public housing agencies to prevent termination of assistance to families receiving assistance under the disaster voucher program, as authorized by chapter 9 of title I of division B of Public Law 109–148 under the heading 'Tenant-Based Rental Assistance'".

SEC. 3215. Notwithstanding section 1101, the level for "Department of Housing and Urban Development, Community Planning and Development, Community Development Fund" shall be $4,255,000,000, of which $3,990,000,000 shall be for carrying out the community development block grant program under title I of the Housing and Community Development Act of 1974, as amended: *Provided*, That none of the funds made available by this section for such account may be used for grants for the Economic Development Initiative or Neighborhood Initiatives activities.

SEC. 3216. Notwithstanding section 1101, the level for "Department of Housing and Urban Development, Community Planning and Development, Homeless Assistance Grants" shall be $2,055,000,000.

SEC. 3217. Notwithstanding section 1101, the level for "Department of Housing and Urban Development, Housing Programs, Project-Based Rental Assistance" shall be $8,882,328,000, to remain available until expended, shall be available on October 1, 2010 (in addition to the $393,672,000 previously appropriated under such heading that became available on October 1, 2010), and, notwithstanding section 1109, an additional $400,000,000, to remain available until expended, shall be available on October 1, 2011: *Provided*, That of the amounts available for such heading, $8,950,000,000 shall be for activities specified in paragraph (1)

under such heading of division A of Public Law 111–117 and $326,000,000 shall be available for activities specified in paragraph (2) under such heading in such public law.

SEC. 3218. Notwithstanding section 1101, the level for "Department of Housing and Urban Development, Housing Programs, Energy Innovation Fund" shall be $0.

SEC. 3219. The heading "Department of Housing and Urban Development, Housing Program, Other Assisted Housing Programs, Rental Housing Assistance" shall be applied by inserting ", or extensions of up to one year for expiring contracts," after "for amendments to contracts".

SEC. 3220. Notwithstanding section 1101, the level under the heading "Department of Housing and Urban Development, Housing Programs, Rent Supplement (Rescission)" shall be $40,060,000.

SEC. 3221. Notwithstanding section 1101, the level for "Department of Housing and Urban Development, Federal Housing Administration, Mutual Mortgage Insurance Program Account" for administrative contract expenses shall be $221,125,000.

SEC. 3222. The first proviso in the first paragraph under the heading "Department of Housing and Urban Development, Federal Housing Administration, General and Special Risk Program Account" in division A of Public Law 111–117 shall be applied in fiscal year 2011 by substituting '$20,000,000,000' for '$15,000,000,000'.

SEC. 3223. Notwithstanding section 1101, the level for "Department of Housing and Urban Development, Management and Administration, Working Capital Fund" shall be $228,500,000.

SEC. 3224. Notwithstanding section 1101, the level for "Related Agencies, National Railroad Passenger Corporation, Office of Inspector General, Salaries and Expenses" shall be $19,496,000.

SEC. 3225. Notwithstanding section 1101, the level under the heading "Related Agencies, United States Interagency Council on Homelessness, Operating Expenses" shall be $3,930,000.

SEC. 3226. Section 209 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11319) is repealed.

SEC. 3227. Unobligated balances of funds made available for obligation under 23 U.S.C. 320, section 147 of Public Law 95–599, section 9(c) of Public Law 97–134, section 149 of Public Law 100–17, and sections 1006, 1069, 1103, 1104, 1105, 1106, 1107, 1108, 6005, 6015, and 6023 of Public Law 102–240 are permanently rescinded. In addition, the unobligated balance available on September 30, 2011, under section 1602 of the Transportation Equity Act for the 21st Century (Public Law 105–178) for each project for which less than 10 percent of the amount authorized for such project under such section has been obligated is permanently rescinded. In addition, of the amounts authorized for fiscal years 2005 through 2009 in section 1101(a)(16) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59) to carry out the high priority projects program under section 117 of title 23, United States Code, that are not allocated for projects described in section 1702 of such Act, $8,190,335 are permanently rescinded.

DIVISION B—SURFACE TRANSPORTATION EXTENSION

SEC. 4001. SHORT TITLE; RECONCILIATION OF FUNDS.

(a) SHORT TITLE.—This division may be cited as the "Surface Transportation Extension Act of 2010, Part II".

(b) RECONCILIATION OF FUNDS.—The Secretary of Transportation shall reduce the amount apportioned or allocated for a program, project, or activity under this division in fiscal year 2011 by amounts apportioned or allocated pursuant to the Surface Transportation Extension Act of 2010 for the period beginning on October 1, 2010, and ending on December 31, 2010.

TITLE I—FEDERAL-AID HIGHWAYS

SEC. 4101. EXTENSION OF FEDERAL-AID HIGHWAY PROGRAMS.

(a) IN GENERAL.—Section 411 of the Surface Transportation Extension Act of 2010 (Public Law 111–147; 124 Stat. 78) is amended—

(1) by striking "the period beginning on October 1, 2010, and ending on December 31, 2010" each place it appears (except in subsection (c)(2)) and inserting "fiscal year 2011";

(2) in subsection (a) by striking "December 31, 2010" and inserting "September 30, 2011";

(3) in subsection (b)(2) by striking "¼ of";

(4) in subsection (c)—

(A) in paragraph (2)—

(i) by striking "¼ of"; and

(ii) by striking "the period beginning on October 1, 2010, and ending on December 31, 2010," and inserting "fiscal year 2011";

(B) in paragraph (4)—

(i) in subparagraph (A)(ii) by striking ", except that during such period obligations subject to such limitation shall not exceed ¼ of the limitation on obligations included in an Act making appropriations for fiscal year 2011"; and

(ii) in subparagraph (B)(ii)(II) by striking "$159,750,000" and inserting "$639,000,000"; and

(C) by striking paragraph (5);

(5) in subsection (d)—

(A) by striking "¼ of" each place it appears; and

(B) in paragraph (2)(A)—

(i) in the matter preceding clause (i) by striking "apportioned under sections 104(b) and 144 of title 23, United States Code," and inserting "specified in section 105(a)(2) of title 23, United States Code (except the high priority projects program),"; and

(ii) in clause (ii) by striking "apportioned under such sections of such Code" and inserting "specified in such section 105(a)(2) (except the high priority projects program)"; and

(6) in subsection (e)(1)(B) by striking "¼".

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

(1) by striking "$105,606,250" and inserting "$422,425,000"; and

(2) by striking "the period beginning on October 1, 2010, and ending on December 31, 2010" and inserting "fiscal year 2011".

TITLE II—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION, AND ADDITIONAL PROGRAMS

SEC. 4201. EXTENSION OF NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION HIGHWAY SAFETY PROGRAMS.

(a) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2001(a)(1) of SAFETEA–LU (119 Stat. 1519) is amended by striking "and $58,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010." and inserting "and $235,000,000 for fiscal year 2011.".

(b) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2001(a)(2) of SAFETEA–LU (119 Stat. 1519) is amended by striking "and $27,061,000 for the period beginning on October 1, 2010, and ending on December 31, 2010." and inserting "and $108,244,000 for fiscal year 2011.".

(c) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 2001(a)(3) of SAFETEA–LU (119 Stat. 1519) is amended by striking "and $6,250,000 for the period beginning on October 1, 2010, and ending on December 31, 2010." and inserting "and $25,000,000 for fiscal year 2011.".

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

(e) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—Section 2001(a)(5) of SAFETEA–LU (119 Stat. 1519) is amended by striking "and $8,625,000 for the period beginning on October 1, 2010, and ending on December 31, 2010." and inserting "and $34,500,000 for fiscal year 2011.".

(f) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANT PROGRAM.—Section 2001(a)(6) of SAFETEA–LU (119 Stat. 1519) is amended by striking "and $34,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010." and inserting "and $139,000,000 for fiscal year 2011.".

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

(h) HIGH VISIBILITY ENFORCEMENT PROGRAM.—Section 2001(a)(8) of SAFETEA–LU (119 Stat. 1520) is amended by striking "and

$7,250,000 for the period beginning on October 1, 2010, and ending on December 31, 2010." and inserting "and $29,000,000 for fiscal year 2011.".

(i) MOTORCYCLIST SAFETY.—Section 2001(a)(9) of SAFETEA–LU (119 Stat. 1520) is amended by striking "and $1,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010." and inserting "and $7,000,000 for fiscal year 2011.".

(j) CHILD SAFETY AND CHILD BOOSTER SEAT SAFETY INCENTIVE GRANTS.—Section 2001(a)(10) of SAFETEA–LU (119 Stat. 1520) is amended by striking "and $1,750,000 for the period beginning on October 1, 2010, and ending on December 31, 2010." and inserting "and $7,000,000 for fiscal year 2011.".

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

SEC. 4202. EXTENSION OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PROGRAMS.

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

(b) ADMINISTRATIVE EXPENSES.—Section 31104(i)(1)(G) of title 49, United States Code, is amended by striking "$61,036,000 for the period beginning on October 1, 2010, and ending on December 31, 2010." and inserting "$244,144,000 for fiscal year 2011.".

(c) GRANT PROGRAMS.—Section 4101(c) of SAFETEA–LU (119 Stat. 1715) is amended—

(1) in paragraph (1)—

(A) by striking "and" after "2009,"; and

(B) by striking "and $6,301,000 for the period beginning on October 1, 2010, and ending on December 31, 2010" and inserting "and $25,000,000 for fiscal year 2011";

(2) in paragraph (2) by striking "and $8,066,000 for the period beginning on October 1, 2010, and ending on December 31, 2010" and inserting "and $32,000,000 for fiscal year 2011";

(3) in paragraph (3) by striking "and $1,260,000 for the period beginning on October 1, 2010, and ending on December 31, 2010" and inserting "and $5,000,000 for fiscal year 2011";

(4) in paragraph (4) by striking "and $6,301,000 for the period beginning on October 1, 2010, and ending on December 31, 2010" and inserting "and $25,000,000 for fiscal year 2011"; and

(5) in paragraph (5) by striking "and $756,000 for the period beginning on October 1, 2010, and ending on December 31, 2010" and inserting "and $3,000,000 for fiscal year 2011".

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

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

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

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

(h) GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.—Section 4134(c) of SAFETEA–LU (119 Stat. 1744) is amended by striking "2009, 2010, and $252,000 for the period beginning on October 1, 2010, and ending on December 31, 2010," and inserting "2011".

(i) MOTOR CARRIER SAFETY ADVISORY COMMITTEE.—Section 4144(d) of SAFETEA–LU (119 Stat. 1748) is amended by striking "December 31, 2010" and inserting "September 30, 2011".

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

SEC. 4203. ADDITIONAL PROGRAMS.

(a) HAZARDOUS MATERIALS RESEARCH PROJECTS.—Section 7131(c) of SAFETEA–LU (119 Stat. 1910) is amended by striking "through 2010" and all that follows before "shall be available" and inserting "through 2011".

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

(1) in subsection (a) by striking "For each of fiscal years 2006" and all that follows before paragraph (1) and inserting the following: "For each of fiscal years 2006 through 2011, the balance of each annual appropriation made in accordance with the provisions of section 3 remaining after the distributions for administrative expenses and other purposes under subsection (b) and for multistate conservation grants under section 14 shall be distributed as follows:"; and

(2) in subsection (b)(1)(A) by striking the first sentence and inserting the following: "From the annual appropriation made in accordance with section 3, for each of fiscal years 2006 through 2011, the Secretary of the Interior may use no more than the amount specified in subparagraph (B) for the fiscal year for expenses for administration incurred in the implementation of this Act, in accordance with this section and section 9.".

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

(d) IMPLEMENTATION OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.—Section 510 of title 23, United States Code, is amended by adding at the end the following:

"(h) IMPLEMENTATION.—Notwithstanding any other provision of this section, the Secretary may use funds made available to carry out this section for implementation of research products related to the future strategic highway research program, including develop-

ment, demonstration, evaluation, and technology transfer activities.".

TITLE III—PUBLIC TRANSPORTATION PROGRAMS

SEC. 4301. ALLOCATION OF FUNDS FOR PLANNING PROGRAMS.

Section 5305(g) of title 49, United States Code, is amended by striking "2010, and for the period beginning October 1, 2010, and ending December 31, 2010," and inserting "2011".

SEC. 4302. SPECIAL RULE FOR URBANIZED AREA FORMULA GRANTS.

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

(1) in the paragraph heading by striking "2010, AND THE PERIOD BEGINNING OCTOBER 1, 2010, AND ENDING DECEMBER 31, 2010" and inserting "2011";

(2) in subparagraph (A) by striking "2010, and the period beginning October 1, 2010, and ending December 31, 2010," and inserting "2011,"; and

(3) in subparagraph (E)—

(A) in the subparagraph heading by striking "2010 AND DURING THE PERIOD BEGINNING OCTOBER 1, 2010, AND ENDING DECEMBER 31, 2010" and inserting "2011"; and

(B) in the matter preceding clause (i) by striking "In fiscal years 2008 through 2010, and during the period beginning October 1, 2010, and ending December 31, 2010," and inserting "In each of fiscal years 2008 through 2011".

SEC. 4303. ALLOCATING AMOUNTS FOR CAPITAL INVESTMENT GRANTS.

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

(1) in paragraph (2)—

(A) in the paragraph heading by striking "2010 AND OCTOBER 1, 2010, THROUGH DECEMBER 31, 2010" and inserting "2011";

(B) in the matter preceding subparagraph (A) by striking "2010, and during the period beginning October 1, 2010, and ending December 31, 2010," and inserting "2011"; and

(C) in subparagraph (A)(i) by striking "2010, and $50,000,000 for the period beginning October 1, 2010, and ending December 31, 2010," and inserting "2011";

(2) in paragraph (6)—

(A) in subparagraph (B) by striking "2010, and $3,750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010," and inserting "2011"; and

(B) in subparagraph (C) by striking "2010, and $1,250,000 shall be available for the period beginning October 1, 2010 and ending December 31, 2010," and inserting "2011"; and

(3) in paragraph (7)—

(A) in subparagraph (A)—

(i) by striking "(A) FERRY BOAT SYSTEMS.—" and all that follows through "(i) FISCAL YEAR 2006 THROUGH

2010.—$10,000,000 shall be available in each of fiscal years 2006 through 2010" and inserting the following:

"(A) FERRY BOAT SYSTEMS.—$10,000,000 shall be available in each of fiscal years 2006 through 2011";

(ii) by striking clause (ii);

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

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

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

"(vi) $13,500,000 for fiscal year 2011.";

(C) in subparagraph (C) by striking ", and during the period beginning October 1, 2010, and ending December 31, 2010,";

(D) in subparagraph (D) by striking ", and not less than $8,750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010,"; and

(E) in subparagraph (E) by striking ", and $750,000 shall be available for the period beginning October 1, 2010, and ending December 31, 2010,".

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

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

"(F) $15,000,000 for fiscal year 2011.".

SEC. 4305. APPORTIONMENT BASED ON FIXED GUIDEWAY FACTORS.

Section 5337 of title 49, United States Code, is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking "2010" and inserting "2011"; and

(2) by striking subsection (g).

SEC. 4306. AUTHORIZATIONS FOR PUBLIC TRANSPORTATION.

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

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

"(F) $8,360,565,000 for fiscal year 2011."; and

(2) in paragraph (2)—

(A) in subparagraph (A) by striking "$28,375,000 for the period beginning October 1, 2010, and ending December 31, 2010," and inserting "$113,500,000 for fiscal year 2011";

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

(C) in subparagraph (C) by striking "$12,875,000 for the period beginning October 1, 2010, and ending December 31, 2010," and inserting "$51,500,000 for fiscal year 2011";

(D) in subparagraph (D) by striking "$416,625,000 for the period beginning October 1, 2010 and ending December 31, 2010," and inserting "$1,666,500,000 for fiscal year 2011";

(E) in subparagraph (E) by striking "$246,000,000 for the period beginning October 1, 2010 and ending December 31, 2010," and inserting "$984,000,000 for fiscal year 2011";

(F) in subparagraph (F) by striking "$33,375,000 for the period beginning October 1, 2010 and ending December 31, 2010," and inserting "$133,500,000 for fiscal year 2011";

(G) in subparagraph (G) by striking "$116,250,000 for the period beginning October 1, 2010 and ending December 31, 2010," and inserting "$465,000,000 for fiscal year 2011";

(H) in subparagraph (H) by striking "$41,125,000 for the period beginning October 1, 2010 and ending December 31, 2010," and inserting "$164,500,000 for fiscal year 2011";

(I) in subparagraph (I) by striking "$23,125,000 for the period beginning October 1, 2010 and ending December 31, 2010," and inserting "$92,500,000 for fiscal year 2011";

(J) in subparagraph (J) by striking "$6,725,000 for the period beginning October 1, 2010 and ending December 31, 2010," and inserting "$26,900,000 for fiscal year 2011";

(K) in subparagraph (K) by striking "$875,000 for the period beginning October 1, 2010 and ending December 31, 2010," and inserting "$3,500,000 for fiscal year 2011";

(L) in subparagraph (L) by striking "$6,250,000 for the period beginning October 1, 2010 and ending December 31, 2010," and inserting "$25,000,000 for fiscal year 2011";

(M) in subparagraph (M) by striking "$116,250,000 for the period beginning October 1, 2010 and ending December 31, 2010," and inserting "$465,000,000 for fiscal year 2011"; and

(N) in subparagraph (N) by striking "$2,200,000 for the period beginning October 1, 2010 and ending December 31, 2010," and inserting "$8,800,000 for fiscal year 2011".

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

"(6) $2,000,000,000 for fiscal year 2011.".

(c) RESEARCH AND UNIVERSITY RESEARCH CENTERS.—Section 5338(d) of title 49, United States Code, is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A) by striking "$17,437,500 for the period beginning October 1, 2010, and ending December 31, 2010" and inserting "$69,750,000 for fiscal year 2011"; and

(B) in subparagraph (A) by striking "fiscal year 2009" and inserting "each of fiscal years 2009, 2010, and 2011";

(2) in paragraph (2)(A)—

(A) in clauses (i), (ii), and (iii) by striking "2009" and inserting "2011"; and

(B) in clauses (v), (vi), (vii), and (viii) by striking "and 2009" and inserting "through 2011"; and

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

"(3) FUNDING.—If the Secretary determines that a project or activity described in paragraph (2) received sufficient funds in fiscal year 2010, or a previous fiscal year, to carry out the purpose for which the project or activity was authorized, the Sec-

retary may not allocate any amounts under paragraph (2) for the project or activity for fiscal year 2011, or any subsequent fiscal year.".

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

"(6) $98,911,000 for fiscal year 2011.".

SEC. 4307. AMENDMENTS TO SAFETEA–LU.

(a) CONTRACTED PARATRANSIT PILOT.—Section 3009(i)(1) of SAFETEA–LU (119 Stat. 1572) is amended by striking "2010, and for the period beginning October 1, 2010, and ending December 31, 2010" and inserting "2011".

(b) PUBLIC-PRIVATE PARTNERSHIP PILOT PROGRAM.—Section 3011 of SAFETEA–LU (49 U.S.C. 5309 note; 119 Stat. 1588) is amended—

(1) in subsection (c)(5) by striking "2010 and the period beginning October 1, 2010, and ending December 31, 2010" and inserting "2011"; and

(2) in subsection (d) by striking "2010, and for the period beginning October 1, 2010, and ending December 31, 2010" and inserting "2011".

(c) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PILOT PROGRAM.—Section 3012(b)(8) of SAFETEA–LU (49 U.S.C. 5310 note; 119 Stat. 1593) is amended by striking "December 31, 2010" and inserting "September 30, 2011".

(d) OBLIGATION CEILING.—Section 3040(7) of SAFETEA–LU (119 Stat. 1639) is amended to read as follows:

"(7) $10,507,752,000 for fiscal year 2011, of which not more than $8,360,565,000 shall be from the Mass Transit Account.".

(e) PROJECT AUTHORIZATIONS FOR NEW FIXED GUIDEWAY CAPITAL PROJECTS.—Section 3043 of SAFETEA–LU (119 Stat. 1640) is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by striking "2010, and for the period beginning October 1, 2010, and ending December 31, 2010," and inserting "2011"; and

(2) in subsection (c), in the matter preceding paragraph (1), by striking "2010, and for the period beginning October 1, 2010, and ending December 31, 2010," and inserting "2011".

(f) ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.—Section 3046 of SAFETEA–LU (49 U.S.C. 5338 note; 119 Stat. 1706) is amended—

(1) in subsection (b) by striking "or period";

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

"(c) ADDITIONAL APPROPRIATIONS.—The Secretary shall allocate amounts appropriated pursuant to section 5338(d) of title 49, United States Code, for national research and technology programs under sections 5312, 5314, and 5322 of such title for fiscal years 2010 and 2011, in amounts equal to the amounts allocated for fiscal year 2009 under each of paragraphs (2), (3), (5), (6), and (8) through (25) of subsection (a)."; and

(3) in subsection (d)—

(A) by striking "2009" and inserting "2010"; and

(B) by striking "2010" and inserting "2011".

SEC. 4308. LEVEL OF OBLIGATION LIMITATIONS.

(a) HIGHWAY CATEGORY.—Section 8003(a) of SAFETEA–LU (2 U.S.C. 901 note; 119 Stat. 1917) is amended—

(1) in paragraph (6) by striking "for the period beginning on October 1, 2009, and ending on September 30, 2010," and inserting "for fiscal year 2010,"; and

(2) by striking paragraph (7) and inserting the following:

"(7) for fiscal year 2011, $42,469,970,178.".

(b) MASS TRANSIT CATEGORY.—Section 8003(b) of SAFETEA–LU (2 U.S.C. 901 note; 119 Stat. 1917) is amended—

(1) in paragraph (6) by striking "for the period beginning on October 1, 2009, and ending on December 31, 2010," and inserting "for fiscal year 2010,"; and

(2) by striking paragraph (7) and inserting the following:

"(7) for fiscal year 2011, $10,338,065,000.".

TITLE IV—EXTENSION OF EXPENDITURE AUTHORITY

SEC. 4401. EXTENSION OF EXPENDITURE AUTHORITY.

(a) HIGHWAY TRUST FUND.—Section 9503 of the Internal Revenue Code of 1986 is amended—

(1) by striking "December 31, 2010 (January 1, 2011, in the case of expenditures for administrative expenses)" in subsections (b)(6)(B) and (c)(1) and inserting "October 1, 2011",

(2) by striking "the Surface Transportation Extension Act of 2010" in subsections (c)(1) and (e)(3) and inserting "the Surface Transportation Extension Act of 2010, Part II", and

(3) by striking "January 1, 2011" in subsection (e)(3) and inserting "October 1, 2011".

(b) SPORT FISH RESTORATION AND BOATING TRUST FUND.—Section 9504 of the Internal Revenue Code of 1986 is amended—

(1) by striking "Surface Transportation Extension Act of 2010" each place it appears in subsection (b)(2) and inserting "Surface Transportation Extension Act of 2010, Part II", and

(2) by striking "January 1, 2011" in subsection (d)(2) and inserting "October 1, 2011".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 31, 2010.

DIVISION C—AIRPORT AND AIRWAY EXTENSION

SEC. 5001. SHORT TITLE.

This division may be cited as the "Airport and Airway Extension Act of 2010, Part IV".

SEC. 5002. EXTENSION OF TAXES FUNDING AIRPORT AND AIRWAY TRUST FUND.

(a) FUEL TAXES.—Subparagraph (B) of section 4081(d)(2) of the Internal Revenue Code of 1986 is amended by striking "December 31, 2010" and inserting "September 30, 2011".

(b) TICKET TAXES.—

(1) PERSONS.—Clause (ii) of section 4261(j)(1)(A) of the Internal Revenue Code of 1986 is amended by striking "December 31, 2010" and inserting "September 30, 2011".

(2) PROPERTY.—Clause (ii) of section 4271(d)(1)(A) of such Code is amended by striking "December 31, 2010" and inserting "September 30, 2011".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2011.

SEC. 5003. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY.

(a) IN GENERAL.—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 is amended—

(1) by striking "January 1, 2011" and inserting "October 1, 2011"; and

(2) by inserting "or the Airport and Airway Extension Act of 2010, Part IV" before the semicolon at the end of subparagraph (A).

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 9502(e) of such Code is amended by striking "January 1, 2011" and inserting "October 1, 2011".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2011.

SEC. 5004. EXTENSION OF AIRPORT IMPROVEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 48103(8) of title 49, United States Code, is amended to read as follows:

"(8) $3,700,000,000 for fiscal year 2011.".

(b) PROJECT GRANT AUTHORITY.—Section 47104(c) of such title is amended by striking "December 31, 2010," and inserting "September 30, 2011,".

SEC. 5005. EXTENSION OF EXPIRING AUTHORITIES.

(a) Section 40117(l)(7) of title 49, United States Code, is amended by striking "January 1, 2011." and inserting "October 1, 2011.".

(b) Section 44302(f)(1) of such title is amended—

(1) by striking "December 31, 2010," and inserting "September 30, 2011,"; and

(2) by striking "March 31, 2011," and inserting "December 31, 2011,".

(c) Section 44303(b) of such title is amended by striking "March 31, 2011," and inserting "December 31, 2011,".

(d) Section 47107(s)(3) of such title is amended by striking "January 1, 2011." and inserting "October 1, 2011.".

(e) Section 47115(j) of such title is amended by striking "fiscal years 2004 through 2010, and for the portion of fiscal year 2011 ending before January 1, 2011," and inserting "fiscal years 2004 through 2011,".

(f) Section 47141(f) of such title is amended by striking "December 31, 2010." and inserting "September 30, 2011.".

(g) Section 49108 of such title is amended by striking "December 31, 2010," and inserting "September 30, 2011,".

(h) Section 161 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 47109 note) is amended by striking "fiscal year 2009 or 2010, or in the portion of fiscal year 2011 ending before January 1, 2011," and inserting "fiscal year 2009, 2010, or 2011".

(i) Section 186(d) of such Act (117 Stat. 2518) is amended by striking "for fiscal years ending before October 1, 2010, and for the portion of fiscal year 2011 ending before January 1, 2011," and inserting "for fiscal years ending before October 1, 2011,".

(j) The amendments made by this section shall take effect on January 1, 2011.

DIVISION D—FOOD SAFETY

SEC. 6001. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the "FDA Food Safety Modernization Act".

(b) REFERENCES.—Except as otherwise specified, whenever in this division an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(c) TABLE OF CONTENTS.—The table of contents for this division is as follows:

TITLE I—IMPROVING CAPACITY TO PREVENT FOOD SAFETY PROBLEMS

SEC. 6101. INSPECTIONS OF RECORDS.

(a) IN GENERAL.—Section 414(a) (21 U.S.C. 350c(a)) is amended—

(1) by striking the subsection heading and all that follows through "of food is" and inserting the following: "RECORDS INSPECTION.—

"(1) ADULTERATED FOOD.—If the Secretary has a reasonable belief that an article of food, and any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, is";

(2) by inserting ", and to any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner," after "relating to such article";

(3) by striking the last sentence; and

(4) by inserting at the end the following:

"(2) USE OF OR EXPOSURE TO FOOD OF CONCERN.—If the Secretary believes that there is a reasonable probability that the use of or exposure to an article of food, and any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, will cause serious adverse health consequences or death to humans or animals, each person (excluding farms and restaurants) who manufactures, processes, packs, distributes, receives, holds, or imports such article shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, upon presentation of appropriate credentials and a written notice to such person, at reasonable times and within reasonable limits and in a reasonable manner, to have access to and copy all records relating to such article and to any other article of food that the Secretary reasonably believes is likely to be affected in a similar manner, that are needed to assist the Secretary in determining whether there is a reasonable probability that the use of or exposure to the food will cause serious adverse health consequences or death to humans or animals.

"(3) APPLICATION.—The requirement under paragraphs (1) and (2) applies to all records relating to the manufacture, processing, packing, distribution, receipt, holding, or importation of such article maintained by or on behalf of such person in any format (including paper and electronic formats) and at any location.".

(b) CONFORMING AMENDMENT.—Section 704(a)(1)(B) (21 U.S.C. 374(a)(1)(B)) is amended by striking "section 414 when" and all that follows through "subject to" and inserting "section 414, when the standard for records inspection under paragraph (1) or (2) of section 414(a) applies, subject to".

SEC. 6102. REGISTRATION OF FOOD FACILITIES.

(a) UPDATING OF FOOD CATEGORY REGULATIONS; BIENNIAL REGISTRATION RENEWAL.—Section 415(a) (21 U.S.C. 350d(a)) is amended—

(1) in paragraph (2), by—

(A) striking "conducts business and" and inserting "conducts business, the e-mail address for the contact person of the facility or, in the case of a foreign facility, the United States agent for the facility, and"; and

(B) inserting ", or any other food categories as determined appropriate by the Secretary, including by guidance" after "Code of Federal Regulations";

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

"(3) BIENNIAL REGISTRATION RENEWAL.—During the period beginning on October 1 and ending on December 31 of each even-numbered year, a registrant that has submitted a registration under paragraph (1) shall submit to the Secretary a renewal registration containing the information described in paragraph (2). The Secretary shall provide for an abbreviated registration renewal process for any registrant that has not had any changes to such information since the registrant submitted the preceding registration or registration renewal for the facility involved.".

(b) SUSPENSION OF REGISTRATION.—

(1) IN GENERAL.—Section 415 (21 U.S.C. 350d) is amended—

(A) in subsection (a)(2), by inserting after the first sentence the following: "The registration shall contain an assurance that the Secretary will be permitted to inspect such facility at the times and in the manner permitted by this Act.";

(B) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(C) by inserting after subsection (a) the following:

"(b) SUSPENSION OF REGISTRATION.—

"(1) IN GENERAL.—If the Secretary determines that food manufactured, processed, packed, received, or held by a facility registered under this section has a reasonable probability of causing serious adverse health consequences or death to humans or animals, the Secretary may by order suspend the registration of a facility—

"(A) that created, caused, or was otherwise responsible for such reasonable probability; or

"(B)(i) that knew of, or had reason to know of, such reasonable probability; and

"(ii) packed, received, or held such food.

"(2) HEARING ON SUSPENSION.—The Secretary shall provide the registrant subject to an order under paragraph (1) with an opportunity for an informal hearing, to be held as soon as pos-

sible but not later than 2 business days after the issuance of the order or such other time period, as agreed upon by the Secretary and the registrant, on the actions required for reinstatement of registration and why the registration that is subject to suspension should be reinstated. The Secretary shall reinstate a registration if the Secretary determines, based on evidence presented, that adequate grounds do not exist to continue the suspension of the registration.

"(3) POST-HEARING CORRECTIVE ACTION PLAN; VACATING OF ORDER.—

"(A) CORRECTIVE ACTION PLAN.—If, after providing opportunity for an informal hearing under paragraph (2), the Secretary determines that the suspension of registration remains necessary, the Secretary shall require the registrant to submit a corrective action plan to demonstrate how the registrant plans to correct the conditions found by the Secretary. The Secretary shall review such plan not later than 14 days after the submission of the corrective action plan or such other time period as determined by the Secretary.

"(B) VACATING OF ORDER.—Upon a determination by the Secretary that adequate grounds do not exist to continue the suspension actions required by the order, or that such actions should be modified, the Secretary shall promptly vacate the order and reinstate the registration of the facility subject to the order or modify the order, as appropriate.

"(4) EFFECT OF SUSPENSION.—If the registration of a facility is suspended under this subsection, no person shall import or export food into the United States from such facility, offer to import or export food into the United States from such facility, or otherwise introduce food from such facility into interstate or intrastate commerce in the United States.

"(5) REGULATIONS.—

"(A) IN GENERAL.—The Secretary shall promulgate regulations to implement this subsection. The Secretary may promulgate such regulations on an interim final basis.

"(B) REGISTRATION REQUIREMENT.—The Secretary may require that registration under this section be submitted in an electronic format. Such requirement may not take effect before the date that is 5 years after the date of enactment of the FDA Food Safety Modernization Act.

"(6) APPLICATION DATE.—Facilities shall be subject to the requirements of this subsection beginning on the earlier of—

"(A) the date on which the Secretary issues regulations under paragraph (5); or

"(B) 180 days after the date of enactment of the FDA Food Safety Modernization Act.

"(7) NO DELEGATION.—The authority conferred by this subsection to issue an order to suspend a registration or vacate an order of suspension shall not be delegated to any officer or employee other than the Commissioner.".

(2) SMALL ENTITY COMPLIANCE POLICY GUIDE.—Not later than 180 days after the issuance of the regulations promulgated under section 415(b)(5) of the Federal Food, Drug, and Cosmetic Act (as added by this section), the Secretary shall issue

a small entity compliance policy guide setting forth in plain language the requirements of such regulations to assist small entities in complying with registration requirements and other activities required under such section.

(3) IMPORTED FOOD.—Section 801(l) (21 U.S.C. 381(l)) is amended by inserting "(or for which a registration has been suspended under such section)" after "section 415".

(c) CLARIFICATION OF INTENT.—

(1) RETAIL FOOD ESTABLISHMENT.—The Secretary shall amend the definition of the term "retail food establishment" in section 1.227(b)(11) of title 21, Code of Federal Regulations to clarify that, in determining the primary function of an establishment or a retail food establishment under such section, the sale of food products directly to consumers by such establishment and the sale of food directly to consumers by such retail food establishment include—

(A) the sale of such food products or food directly to consumers by such establishment at a roadside stand or farmers' market where such stand or market is located other than where the food was manufactured or processed;

(B) the sale and distribution of such food through a community supported agriculture program; and

(C) the sale and distribution of such food at any other such direct sales platform as determined by the Secretary.

(2) DEFINITIONS.—For purposes of paragraph (1)—

(A) the term "community supported agriculture program" has the same meaning given the term "community supported agriculture (CSA) program" in section 249.2 of title 7, Code of Federal Regulations (or any successor regulation); and

(B) the term "consumer" does not include a business.

(d) CONFORMING AMENDMENTS.—

(1) Section 301(d) (21 U.S.C. 331(d)) is amended by inserting "415," after "404,".

(2) Section 415(d), as redesignated by subsection (b), is amended by adding at the end before the period "for a facility to be registered, except with respect to the reinstatement of a registration that is suspended under subsection (b)".

SEC. 6103. HAZARD ANALYSIS AND RISK-BASED PREVENTIVE CONTROLS.

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

"SEC. 418. HAZARD ANALYSIS AND RISK-BASED PREVENTIVE CONTROLS.

"(a) IN GENERAL.—The owner, operator, or agent in charge of a facility shall, in accordance with this section, evaluate the hazards that could affect food manufactured, processed, packed, or held by such facility, identify and implement preventive controls to significantly minimize or prevent the occurrence of such hazards and provide assurances that such food is not adulterated under section 402 or misbranded under section 403(w), monitor the performance of those controls, and maintain records of this monitoring as a matter of routine practice.

"(b) HAZARD ANALYSIS.—The owner, operator, or agent in charge of a facility shall—

"(1) identify and evaluate known or reasonably foreseeable hazards that may be associated with the facility, including—

"(A) biological, chemical, physical, and radiological hazards, natural toxins, pesticides, drug residues, decomposition, parasites, allergens, and unapproved food and color additives; and

"(B) hazards that occur naturally, or may be unintentionally introduced; and

"(2) identify and evaluate hazards that may be intentionally introduced, including by acts of terrorism; and

"(3) develop a written analysis of the hazards.

"(c) PREVENTIVE CONTROLS.—The owner, operator, or agent in charge of a facility shall identify and implement preventive controls, including at critical control points, if any, to provide assurances that—

"(1) hazards identified in the hazard analysis conducted under subsection (b)(1) will be significantly minimized or prevented;

"(2) any hazards identified in the hazard analysis conducted under subsection (b)(2) will be significantly minimized or prevented and addressed, consistent with section 420, as applicable; and

"(3) the food manufactured, processed, packed, or held by such facility will not be adulterated under section 402 or misbranded under section 403(w).

"(d) MONITORING OF EFFECTIVENESS.—The owner, operator, or agent in charge of a facility shall monitor the effectiveness of the preventive controls implemented under subsection (c) to provide assurances that the outcomes described in subsection (c) shall be achieved.

"(e) CORRECTIVE ACTIONS.—The owner, operator, or agent in charge of a facility shall establish procedures to ensure that, if the preventive controls implemented under subsection (c) are not properly implemented or are found to be ineffective—

"(1) appropriate action is taken to reduce the likelihood of recurrence of the implementation failure;

"(2) all affected food is evaluated for safety; and

"(3) all affected food is prevented from entering into commerce if the owner, operator, or agent in charge of such facility cannot ensure that the affected food is not adulterated under section 402 or misbranded under section 403(w).

"(f) VERIFICATION.—The owner, operator, or agent in charge of a facility shall verify that—

"(1) the preventive controls implemented under subsection (c) are adequate to control the hazards identified under subsection (b);

"(2) the owner, operator, or agent is conducting monitoring in accordance with subsection (d);

"(3) the owner, operator, or agent is making appropriate decisions about corrective actions taken under subsection (e);

"(4) the preventive controls implemented under subsection (c) are effectively and significantly minimizing or preventing the occurrence of identified hazards, including through the use of environmental and product testing programs and other appropriate means; and

"(5) there is documented, periodic reanalysis of the plan under subsection (i) to ensure that the plan is still relevant to the raw materials, conditions, and processes in the facility, and new and emerging threats.

"(g) RECORDKEEPING.—The owner, operator, or agent in charge of a facility shall maintain, for not less than 2 years, records documenting the monitoring of the preventive controls implemented under subsection (c), instances of nonconformance material to food safety, the results of testing and other appropriate means of verification under subsection (f)(4), instances when corrective actions were implemented, and the efficacy of preventive controls and corrective actions.

"(h) WRITTEN PLAN AND DOCUMENTATION.—The owner, operator, or agent in charge of a facility shall prepare a written plan that documents and describes the procedures used by the facility to comply with the requirements of this section, including analyzing the hazards under subsection (b) and identifying the preventive controls adopted under subsection (c) to address those hazards. Such written plan, together with the documentation described in subsection (g), shall be made promptly available to a duly authorized representative of the Secretary upon oral or written request.

"(i) REQUIREMENT TO REANALYZE.—The owner, operator, or agent in charge of a facility shall conduct a reanalysis under subsection (b) whenever a significant change is made in the activities conducted at a facility operated by such owner, operator, or agent if the change creates a reasonable potential for a new hazard or a significant increase in a previously identified hazard or not less frequently than once every 3 years, whichever is earlier. Such reanalysis shall be completed and additional preventive controls needed to address the hazard identified, if any, shall be implemented before the change in activities at the facility is operative. Such owner, operator, or agent shall revise the written plan required under subsection (h) if such a significant change is made or document the basis for the conclusion that no additional or revised preventive controls are needed. The Secretary may require a reanalysis under this section to respond to new hazards and developments in scientific understanding, including, as appropriate, results from the Department of Homeland Security biological, chemical, radiological, or other terrorism risk assessment.

"(j) EXEMPTION FOR SEAFOOD, JUICE, AND LOW-ACID CANNED FOOD FACILITIES SUBJECT TO HACCP.—

"(1) IN GENERAL.—This section shall not apply to a facility if the owner, operator, or agent in charge of such facility is required to comply with, and is in compliance with, 1 of the following standards and regulations with respect to such facility:

"(A) The Seafood Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

"(B) The Juice Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

"(C) The Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards of the Food and Drug Administration (or any successor standards).

"(2) APPLICABILITY.—The exemption under paragraph (1)(C) shall apply only with respect to microbiological hazards that are regulated under the standards for Thermally Processed

Low-Acid Foods Packaged in Hermetically Sealed Containers under part 113 of chapter 21, Code of Federal Regulations (or any successor regulations).

"(k) EXCEPTION FOR ACTIVITIES OF FACILITIES SUBJECT TO SECTION 419.—This section shall not apply to activities of a facility that are subject to section 419.

"(l) MODIFIED REQUIREMENTS FOR QUALIFIED FACILITIES.—

"(1) QUALIFIED FACILITIES.—

"(A) IN GENERAL.—A facility is a qualified facility for purposes of this subsection if the facility meets the conditions under subparagraph (B) or (C).

"(B) VERY SMALL BUSINESS.—A facility is a qualified facility under this subparagraph—

"(i) if the facility, including any subsidiary or affiliate of the facility, is, collectively, a very small business (as defined in the regulations promulgated under subsection (n)); and

"(ii) in the case where the facility is a subsidiary or affiliate of an entity, if such subsidiaries or affiliates, are, collectively, a very small business (as so defined).

"(C) LIMITED ANNUAL MONETARY VALUE OF SALES.—

"(i) IN GENERAL.—A facility is a qualified facility under this subparagraph if clause (ii) applies—

"(I) to the facility, including any subsidiary or affiliate of the facility, collectively; and

"(II) to the subsidiaries or affiliates, collectively, of any entity of which the facility is a subsidiary or affiliate.

"(ii) AVERAGE ANNUAL MONETARY VALUE.—This clause applies if—

"(I) during the 3-year period preceding the applicable calendar year, the average annual monetary value of the food manufactured, processed, packed, or held at such facility (or the collective average annual monetary value of such food at any subsidiary or affiliate, as described in clause (i)) that is sold directly to qualified end-users during such period exceeded the average annual monetary value of the food manufactured, processed, packed, or held at such facility (or the collective average annual monetary value of such food at any subsidiary or affiliate, as so described) sold by such facility (or collectively by any such subsidiary or affiliate) to all other purchasers during such period; and

"(II) the average annual monetary value of all food sold by such facility (or the collective average annual monetary value of such food sold by any subsidiary or affiliate, as described in clause (i)) during such period was less than $500,000, adjusted for inflation.

"(2) EXEMPTION.—A qualified facility—

"(A) shall not be subject to the requirements under subsections (a) through (i) and subsection (n) in an applicable calendar year; and

"(B) shall submit to the Secretary—

"(i)(I) documentation that demonstrates that the owner, operator, or agent in charge of the facility has identified potential hazards associated with the food being produced, is implementing preventive controls to address the hazards, and is monitoring the preventive controls to ensure that such controls are effective; or

"(II) documentation (which may include licenses, inspection reports, certificates, permits, credentials, certification by an appropriate agency (such as a State department of agriculture), or other evidence of oversight), as specified by the Secretary, that the facility is in compliance with State, local, county, or other applicable non-Federal food safety law; and

"(ii) documentation, as specified by the Secretary in a guidance document issued not later than 1 year after the date of enactment of this section, that the facility is a qualified facility under paragraph (1)(B) or (1)(C).

"(3) WITHDRAWAL; RULE OF CONSTRUCTION.—

"(A) IN GENERAL.—In the event of an active investigation of a foodborne illness outbreak that is directly linked to a qualified facility subject to an exemption under this subsection, or if the Secretary determines that it is necessary to protect the public health and prevent or mitigate a foodborne illness outbreak based on conduct or conditions associated with a qualified facility that are material to the safety of the food manufactured, processed, packed, or held at such facility, the Secretary may withdraw the exemption provided to such facility under this subsection.

"(B) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to expand or limit the inspection authority of the Secretary.

"(4) DEFINITIONS.—In this subsection:

"(A) AFFILIATE.—The term 'affiliate' means any facility that controls, is controlled by, or is under common control with another facility.

"(B) QUALIFIED END-USER.—The term 'qualified end-user', with respect to a food, means—

"(i) the consumer of the food; or

"(ii) a restaurant or retail food establishment (as those terms are defined by the Secretary for purposes of section 415) that—

"(I) is located—

"(aa) in the same State as the qualified facility that sold the food to such restaurant or establishment; or

"(bb) not more than 275 miles from such facility; and

"(II) is purchasing the food for sale directly to consumers at such restaurant or retail food establishment.

"(C) CONSUMER.—For purposes of subparagraph (B), the term 'consumer' does not include a business.

"(D) SUBSIDIARY.—The term 'subsidiary' means any company which is owned or controlled directly or indirectly by another company.

"(5) STUDY.—

"(A) IN GENERAL.—The Secretary, in consultation with the Secretary of Agriculture, shall conduct a study of the food processing sector regulated by the Secretary to determine—

"(i) the distribution of food production by type and size of operation, including monetary value of food sold;

"(ii) the proportion of food produced by each type and size of operation;

"(iii) the number and types of food facilities co-located on farms, including the number and proportion by commodity and by manufacturing or processing activity;

"(iv) the incidence of foodborne illness originating from each size and type of operation and the type of food facilities for which no reported or known hazard exists; and

"(v) the effect on foodborne illness risk associated with commingling, processing, transporting, and storing food and raw agricultural commodities, including differences in risk based on the scale and duration of such activities.

"(B) SIZE.—The results of the study conducted under subparagraph (A) shall include the information necessary to enable the Secretary to define the terms 'small business' and 'very small business', for purposes of promulgating the regulation under subsection (n). In defining such terms, the Secretary shall include consideration of harvestable acres, income, the number of employees, and the volume of food harvested.

"(C) SUBMISSION OF REPORT.—Not later than 18 months after the date of enactment the FDA Food Safety Modernization Act, the Secretary shall submit to Congress a report that describes the results of the study conducted under subparagraph (A).

"(6) NO PREEMPTION.—Nothing in this subsection preempts State, local, county, or other non-Federal law regarding the safe production of food. Compliance with this subsection shall not relieve any person from liability at common law or under State statutory law.

"(7) NOTIFICATION TO CONSUMERS.—

"(A) IN GENERAL.—A qualified facility that is exempt from the requirements under subsections (a) through (i) and subsection (n) and does not prepare documentation under paragraph (2)(B)(i)(I) shall—

"(i) with respect to a food for which a food packaging label is required by the Secretary under any other provision of this Act, include prominently and conspicuously on such label the name and business address of the facility where the food was manufactured or processed; or

"(ii) with respect to a food for which a food packaging label is not required by the Secretary under any other provisions of this Act, prominently and conspicuously display, at the point of purchase, the name and business address of the facility where the food was manufactured or processed, on a label, poster, sign, placard, or documents delivered contemporaneously with the food in the normal course of business, or, in the case of Internet sales, in an electronic notice.

"(B) NO ADDITIONAL LABEL.—Subparagraph (A) does not provide authority to the Secretary to require a label that is in addition to any label required under any other provision of this Act.

"(m) AUTHORITY WITH RESPECT TO CERTAIN FACILITIES.—The Secretary may, by regulation, exempt or modify the requirements for compliance under this section with respect to facilities that are solely engaged in the production of food for animals other than man, the storage of raw agricultural commodities (other than fruits and vegetables) intended for further distribution or processing, or the storage of packaged foods that are not exposed to the environment.

"(n) REGULATIONS.—

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall promulgate regulations—

"(A) to establish science-based minimum standards for conducting a hazard analysis, documenting hazards, implementing preventive controls, and documenting the implementation of the preventive controls under this section; and

"(B) to define, for purposes of this section, the terms 'small business' and 'very small business', taking into consideration the study described in subsection (l)(5).

"(2) COORDINATION.—In promulgating the regulations under paragraph (1)(A), with regard to hazards that may be intentionally introduced, including by acts of terrorism, the Secretary shall coordinate with the Secretary of Homeland Security, as appropriate.

"(3) CONTENT.—The regulations promulgated under paragraph (1)(A) shall—

"(A) provide sufficient flexibility to be practicable for all sizes and types of facilities, including small businesses such as a small food processing facility co-located on a farm;

"(B) comply with chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act'), with special attention to minimizing the burden (as defined in section 3502(2) of such Act) on the facility, and collection of information (as defined in section 3502(3) of such Act), associated with such regulations;

"(C) acknowledge differences in risk and minimize, as appropriate, the number of separate standards that apply to separate foods; and

"(D) not require a facility to hire a consultant or other third party to identify, implement, certify, or audit pre-

ventative controls, except in the case of negotiated enforcement resolutions that may require such a consultant or third party.

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to provide the Secretary with the authority to prescribe specific technologies, practices, or critical controls for an individual facility.

"(5) REVIEW.—In promulgating the regulations under paragraph (1)(A), the Secretary shall review regulatory hazard analysis and preventive control programs in existence on the date of enactment of the FDA Food Safety Modernization Act, including the Grade 'A' Pasteurized Milk Ordinance to ensure that such regulations are consistent, to the extent practicable, with applicable domestic and internationally recognized standards in existence on such date.

"(o) DEFINITIONS.—For purposes of this section:

"(1) CRITICAL CONTROL POINT.—The term 'critical control point' means a point, step, or procedure in a food process at which control can be applied and is essential to prevent or eliminate a food safety hazard or reduce such hazard to an acceptable level.

"(2) FACILITY.—The term 'facility' means a domestic facility or a foreign facility that is required to register under section 415.

"(3) PREVENTIVE CONTROLS.—The term 'preventive controls' means those risk-based, reasonably appropriate procedures, practices, and processes that a person knowledgeable about the safe manufacturing, processing, packing, or holding of food would employ to significantly minimize or prevent the hazards identified under the hazard analysis conducted under subsection (b) and that are consistent with the current scientific understanding of safe food manufacturing, processing, packing, or holding at the time of the analysis. Those procedures, practices, and processes may include the following:

"(A) Sanitation procedures for food contact surfaces and utensils and food-contact surfaces of equipment.

"(B) Supervisor, manager, and employee hygiene training.

"(C) An environmental monitoring program to verify the effectiveness of pathogen controls in processes where a food is exposed to a potential contaminant in the environment.

"(D) A food allergen control program.

"(E) A recall plan.

"(F) Current Good Manufacturing Practices (cGMPs) under part 110 of title 21, Code of Federal Regulations (or any successor regulations).

"(G) Supplier verification activities that relate to the safety of food.".

(b) GUIDANCE DOCUMENT.—The Secretary shall issue a guidance document related to the regulations promulgated under subsection (b)(1) with respect to the hazard analysis and preventive controls under section 418 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)).

(c) RULEMAKING.—

(1) PROPOSED RULEMAKING.—

(A) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this subsection as the "Secretary") shall publish a notice of proposed rulemaking in the Federal Register to promulgate regulations with respect to—

(i) activities that constitute on-farm packing or holding of food that is not grown, raised, or consumed on such farm or another farm under the same ownership for purposes of section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), as amended by this Act; and

(ii) activities that constitute on-farm manufacturing or processing of food that is not consumed on that farm or on another farm under common ownership for purposes of such section 415.

(B) CLARIFICATION.—The rulemaking described under subparagraph (A) shall enhance the implementation of such section 415 and clarify the activities that are included as part of the definition of the term "facility" under such section 415. Nothing in this Act authorizes the Secretary to modify the definition of the term "facility" under such section.

(C) SCIENCE-BASED RISK ANALYSIS.—In promulgating regulations under subparagraph (A), the Secretary shall conduct a science-based risk analysis of—

(i) specific types of on-farm packing or holding of food that is not grown, raised, or consumed on such farm or another farm under the same ownership, as such packing and holding relates to specific foods; and

(ii) specific on-farm manufacturing and processing activities as such activities relate to specific foods that are not consumed on that farm or on another farm under common ownership.

(D) AUTHORITY WITH RESPECT TO CERTAIN FACILITIES.—

(i) IN GENERAL.—In promulgating the regulations under subparagraph (A), the Secretary shall consider the results of the science-based risk analysis conducted under subparagraph (C), and shall exempt certain facilities from the requirements in section 418 of the Federal Food, Drug, and Cosmetic Act (as added by this section), including hazard analysis and preventive controls, and the mandatory inspection frequency in section 421 of such Act (as added by section 6201), or modify the requirements in such sections 418 or 421, as the Secretary determines appropriate, if such facilities are engaged only in specific types of on-farm manufacturing, processing, packing, or holding activities that the Secretary determines to be low risk involving specific foods the Secretary determines to be low risk.

(ii) LIMITATION.—The exemptions or modifications under clause (i) shall not include an exemption from the requirement to register under section 415 of the

Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), as amended by this Act, if applicable, and shall apply only to small businesses and very small businesses, as defined in the regulation promulgated under section 418(n) of the Federal Food, Drug, and Cosmetic Act (as added under subsection (a)).

(2) FINAL REGULATIONS.—Not later than 9 months after the close of the comment period for the proposed rulemaking under paragraph (1), the Secretary shall adopt final rules with respect to—

(A) activities that constitute on-farm packing or holding of food that is not grown, raised, or consumed on such farm or another farm under the same ownership for purposes of section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), as amended by this Act;

(B) activities that constitute on-farm manufacturing or processing of food that is not consumed on that farm or on another farm under common ownership for purposes of such section 415; and

(C) the requirements under sections 418 and 421 of the Federal Food, Drug, and Cosmetic Act, as added by this Act, from which the Secretary may issue exemptions or modifications of the requirements for certain types of facilities.

(d) SMALL ENTITY COMPLIANCE POLICY GUIDE.—Not later than 180 days after the issuance of the regulations promulgated under subsection (n) of section 418 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)), the Secretary shall issue a small entity compliance policy guide setting forth in plain language the requirements of such section 418 and this section to assist small entities in complying with the hazard analysis and other activities required under such section 418 and this section.

(e) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

"(uu) The operation of a facility that manufactures, processes, packs, or holds food for sale in the United States if the owner, operator, or agent in charge of such facility is not in compliance with section 418.".

(f) NO EFFECT ON HACCP AUTHORITIES.—Nothing in the amendments made by this section limits the authority of the Secretary under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Public Health Service Act (42 U.S.C. 201 et seq.) to revise, issue, or enforce Hazard Analysis Critical Control programs and the Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards.

(g) DIETARY SUPPLEMENTS.—Nothing in the amendments made by this section shall apply to any facility with regard to the manufacturing, processing, packing, or holding of a dietary supplement that is in compliance with the requirements of sections 402(g)(2) and 761 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342(g)(2), 379aa–1).

(h) UPDATING GUIDANCE RELATING TO FISH AND FISHERIES PRODUCTS HAZARDS AND CONTROLS.—The Secretary shall, not later than 180 days after the date of enactment of this Act, update the Fish and Fisheries Products Hazards and Control Guidance to take into

account advances in technology that have occurred since the previous publication of such Guidance by the Secretary.

(i) EFFECTIVE DATES.—

(1) GENERAL RULE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

(2) FLEXIBILITY FOR SMALL BUSINESSES.—Notwithstanding paragraph (1)—

(A) the amendments made by this section shall apply to a small business (as defined in the regulations promulgated under section 418(n) of the Federal Food, Drug, and Cosmetic Act (as added by this section)) beginning on the date that is 6 months after the effective date of such regulations; and

(B) the amendments made by this section shall apply to a very small business (as defined in such regulations) beginning on the date that is 18 months after the effective date of such regulations.

SEC. 6104. PERFORMANCE STANDARDS.

(a) IN GENERAL.—The Secretary shall, in coordination with the Secretary of Agriculture, not less frequently than every 2 years, review and evaluate relevant health data and other relevant information, including from toxicological and epidemiological studies and analyses, current Good Manufacturing Practices issued by the Secretary relating to food, and relevant recommendations of relevant advisory committees, including the Food Advisory Committee, to determine the most significant foodborne contaminants.

(b) GUIDANCE DOCUMENTS AND REGULATIONS.—Based on the review and evaluation conducted under subsection (a), and when appropriate to reduce the risk of serious illness or death to humans or animals or to prevent adulteration of the food under section 402 of the Federal Food, Drug, or Cosmetic Act (21 U.S.C. 342) or to prevent the spread by food of communicable disease under section 361 of the Public Health Service Act (42 U.S.C. 264), the Secretary shall issue contaminant-specific and science-based guidance documents, including guidance documents regarding action levels, or regulations. Such guidance, including guidance regarding action levels, or regulations—

(1) shall apply to products or product classes;

(2) shall, where appropriate, differentiate between food for human consumption and food intended for consumption by animals other than humans; and

(3) shall not be written to be facility-specific.

(c) NO DUPLICATION OF EFFORTS.—The Secretary shall coordinate with the Secretary of Agriculture to avoid issuing duplicative guidance on the same contaminants.

(d) REVIEW.—The Secretary shall periodically review and revise, as appropriate, the guidance documents, including guidance documents regarding action levels, or regulations promulgated under this section.

SEC. 6105. STANDARDS FOR PRODUCE SAFETY.

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 6103, is amended by adding at the end the following:

"SEC. 419. STANDARDS FOR PRODUCE SAFETY.

"(a) PROPOSED RULEMAKING.—

"(1) IN GENERAL.—

"(A) RULEMAKING.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary, in coordination with the Secretary of Agriculture and representatives of State departments of agriculture (including with regard to the national organic program established under the Organic Foods Production Act of 1990), and in consultation with the Secretary of Homeland Security, shall publish a notice of proposed rulemaking to establish science-based minimum standards for the safe production and harvesting of those types of fruits and vegetables, including specific mixes or categories of fruits and vegetables, that are raw agricultural commodities for which the Secretary has determined that such standards minimize the risk of serious adverse health consequences or death.

"(B) DETERMINATION BY SECRETARY.—With respect to small businesses and very small businesses (as such terms are defined in the regulation promulgated under subparagraph (A)) that produce and harvest those types of fruits and vegetables that are raw agricultural commodities that the Secretary has determined are low risk and do not present a risk of serious adverse health consequences or death, the Secretary may determine not to include production and harvesting of such fruits and vegetables in such rulemaking, or may modify the applicable requirements of regulations promulgated pursuant to this section.

"(2) PUBLIC INPUT.—During the comment period on the notice of proposed rulemaking under paragraph (1), the Secretary shall conduct not less than 3 public meetings in diverse geographical areas of the United States to provide persons in different regions an opportunity to comment.

"(3) CONTENT.—The proposed rulemaking under paragraph (1) shall—

"(A) provide sufficient flexibility to be applicable to various types of entities engaged in the production and harvesting of fruits and vegetables that are raw agricultural commodities, including small businesses and entities that sell directly to consumers, and be appropriate to the scale and diversity of the production and harvesting of such commodities;

"(B) include, with respect to growing, harvesting, sorting, packing, and storage operations, science-based minimum standards related to soil amendments, hygiene, packaging, temperature controls, animals in the growing area, and water;

"(C) consider hazards that occur naturally, may be unintentionally introduced, or may be intentionally introduced, including by acts of terrorism;

"(D) take into consideration, consistent with ensuring enforceable public health protection, conservation and environmental practice standards and policies established by

Federal natural resource conservation, wildlife conservation, and environmental agencies;

"(E) in the case of production that is certified organic, not include any requirements that conflict with or duplicate the requirements of the national organic program established under the Organic Foods Production Act of 1990, while providing the same level of public health protection as the requirements under guidance documents, including guidance documents regarding action levels, and regulations under the FDA Food Safety Modernization Act; and

"(F) define, for purposes of this section, the terms 'small business' and 'very small business'.

"(4) PRIORITIZATION.—The Secretary shall prioritize the implementation of the regulations under this section for specific fruits and vegetables that are raw agricultural commodities based on known risks which may include a history and severity of foodborne illness outbreaks.

"(b) FINAL REGULATION.—

"(1) IN GENERAL.—Not later than 1 year after the close of the comment period for the proposed rulemaking under subsection (a), the Secretary shall adopt a final regulation to provide for minimum science-based standards for those types of fruits and vegetables, including specific mixes or categories of fruits or vegetables, that are raw agricultural commodities, based on known safety risks, which may include a history of foodborne illness outbreaks.

"(2) FINAL REGULATION.—The final regulation shall—

"(A) provide for coordination of education and enforcement activities by State and local officials, as designated by the Governors of the respective States or the appropriate elected State official as recognized by State statute; and

"(B) include a description of the variance process under subsection (c) and the types of permissible variances the Secretary may grant.

"(3) FLEXIBILITY FOR SMALL BUSINESSES.—Notwithstanding paragraph (1)—

"(A) the regulations promulgated under this section shall apply to a small business (as defined in the regulation promulgated under subsection (a)(1)) after the date that is 1 year after the effective date of the final regulation under paragraph (1); and

"(B) the regulations promulgated under this section shall apply to a very small business (as defined in the regulation promulgated under subsection (a)(1)) after the date that is 2 years after the effective date of the final regulation under paragraph (1).

"(c) CRITERIA.—

"(1) IN GENERAL.—The regulations adopted under subsection (b) shall—

"(A) set forth those procedures, processes, and practices that the Secretary determines to minimize the risk of serious adverse health consequences or death, including procedures, processes, and practices that the Secretary determines to be reasonably necessary to prevent the introduc-

tion of known or reasonably foreseeable biological, chemical, and physical hazards, including hazards that occur naturally, may be unintentionally introduced, or may be intentionally introduced, including by acts of terrorism, into fruits and vegetables, including specific mixes or categories of fruits and vegetables, that are raw agricultural commodities and to provide reasonable assurances that the produce is not adulterated under section 402;

"(B) provide sufficient flexibility to be practicable for all sizes and types of businesses, including small businesses such as a small food processing facility co-located on a farm;

"(C) comply with chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act'), with special attention to minimizing the burden (as defined in section 3502(2) of such Act) on the business, and collection of information (as defined in section 3502(3) of such Act), associated with such regulations;

"(D) acknowledge differences in risk and minimize, as appropriate, the number of separate standards that apply to separate foods; and

"(E) not require a business to hire a consultant or other third party to identify, implement, or certify compliance with these procedures, processes, and practices, except in the case of negotiated enforcement resolutions that may require such a consultant or third party; and

"(F) permit States and foreign countries from which food is imported into the United States to request from the Secretary variances from the requirements of the regulations, subject to paragraph (2), where the State or foreign country determines that the variance is necessary in light of local growing conditions and that the procedures, processes, and practices to be followed under the variance are reasonably likely to ensure that the produce is not adulterated under section 402 and to provide the same level of public health protection as the requirements of the regulations adopted under subsection (b).

"(2) VARIANCES.—

"(A) REQUESTS FOR VARIANCES.—A State or foreign country from which food is imported into the United States may in writing request a variance from the Secretary. Such request shall describe the variance requested and present information demonstrating that the variance does not increase the likelihood that the food for which the variance is requested will be adulterated under section 402, and that the variance provides the same level of public health protection as the requirements of the regulations adopted under subsection (b). The Secretary shall review such requests in a reasonable timeframe.

"(B) APPROVAL OF VARIANCES.—The Secretary may approve a variance in whole or in part, as appropriate, and may specify the scope of applicability of a variance to other similarly situated persons.

"(C) DENIAL OF VARIANCES.—The Secretary may deny a variance request if the Secretary determines that such

variance is not reasonably likely to ensure that the food is not adulterated under section 402 and is not reasonably likely to provide the same level of public health protection as the requirements of the regulation adopted under subsection (b). The Secretary shall notify the person requesting such variance of the reasons for the denial.

"(D) MODIFICATION OR REVOCATION OF A VARIANCE.—The Secretary, after notice and an opportunity for a hearing, may modify or revoke a variance if the Secretary determines that such variance is not reasonably likely to ensure that the food is not adulterated under section 402 and is not reasonably likely to provide the same level of public health protection as the requirements of the regulations adopted under subsection (b).

"(d) ENFORCEMENT.—The Secretary may coordinate with the Secretary of Agriculture and, as appropriate, shall contract and coordinate with the agency or department designated by the Governor of each State to perform activities to ensure compliance with this section.

"(e) GUIDANCE.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall publish, after consultation with the Secretary of Agriculture, representatives of State departments of agriculture, farmer representatives, and various types of entities engaged in the production and harvesting or importing of fruits and vegetables that are raw agricultural commodities, including small businesses, updated good agricultural practices and guidance for the safe production and harvesting of specific types of fresh produce under this section.

"(2) PUBLIC MEETINGS.—The Secretary shall conduct not fewer than 3 public meetings in diverse geographical areas of the United States as part of an effort to conduct education and outreach regarding the guidance described in paragraph (1) for persons in different regions who are involved in the production and harvesting of fruits and vegetables that are raw agricultural commodities, including persons that sell directly to consumers and farmer representatives, and for importers of fruits and vegetables that are raw agricultural commodities.

"(3) PAPERWORK REDUCTION.—The Secretary shall ensure that any updated guidance under this section will—

"(A) provide sufficient flexibility to be practicable for all sizes and types of facilities, including small businesses such as a small food processing facility co-located on a farm; and

"(B) acknowledge differences in risk and minimize, as appropriate, the number of separate standards that apply to separate foods.

"(f) EXEMPTION FOR DIRECT FARM MARKETING.—

"(1) IN GENERAL.—A farm shall be exempt from the requirements under this section in a calendar year if—

"(A) during the previous 3-year period, the average annual monetary value of the food sold by such farm directly to qualified end-users during such period exceeded the av-

erage annual monetary value of the food sold by such farm to all other buyers during such period; and

"(B) the average annual monetary value of all food sold during such period was less than $500,000, adjusted for inflation.

"(2) NOTIFICATION TO CONSUMERS.—

"(A) IN GENERAL.—A farm that is exempt from the requirements under this section shall—

"(i) with respect to a food for which a food packaging label is required by the Secretary under any other provision of this Act, include prominently and conspicuously on such label the name and business address of the farm where the produce was grown; or

"(ii) with respect to a food for which a food packaging label is not required by the Secretary under any other provision of this Act, prominently and conspicuously display, at the point of purchase, the name and business address of the farm where the produce was grown, on a label, poster, sign, placard, or document delivered contemporaneously with the food in the normal course of business, or, in the case of Internet sales, in an electronic notice.

"(B) NO ADDITIONAL LABEL.—Subparagraph (A) does not provide authority to the Secretary to require a label that is in addition to any label required under any other provision of this Act.

"(3) WITHDRAWAL; RULE OF CONSTRUCTION.—

"(A) IN GENERAL.—In the event of an active investigation of a foodborne illness outbreak that is directly linked to a farm subject to an exemption under this subsection, or if the Secretary determines that it is necessary to protect the public health and prevent or mitigate a foodborne illness outbreak based on conduct or conditions associated with a farm that are material to the safety of the food produced or harvested at such farm, the Secretary may withdraw the exemption provided to such farm under this subsection.

"(B) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to expand or limit the inspection authority of the Secretary.

"(4) DEFINITIONS.—

"(A) QUALIFIED END-USER.—In this subsection, the term 'qualified end-user', with respect to a food means—

"(i) the consumer of the food; or

"(ii) a restaurant or retail food establishment (as those terms are defined by the Secretary for purposes of section 415) that is located—

"(I) in the same State as the farm that produced the food; or

"(II) not more than 275 miles from such farm.

"(B) CONSUMER.—For purposes of subparagraph (A), the term 'consumer' does not include a business.

"(5) NO PREEMPTION.—Nothing in this subsection preempts State, local, county, or other non-Federal law regarding the safe production, harvesting, holding, transportation, and sale

of fresh fruits and vegetables. Compliance with this subsection shall not relieve any person from liability at common law or under State statutory law.

"(6) LIMITATION OF EFFECT.—Nothing in this subsection shall prevent the Secretary from exercising any authority granted in the other sections of this Act.

"(g) CLARIFICATION.—This section shall not apply to produce that is produced by an individual for personal consumption.

"(h) EXCEPTION FOR ACTIVITIES OF FACILITIES SUBJECT TO SECTION 418.—This section shall not apply to activities of a facility that are subject to section 418.".

(b) SMALL ENTITY COMPLIANCE POLICY GUIDE.—Not later than 180 days after the issuance of regulations under section 419 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)), the Secretary of Health and Human Services shall issue a small entity compliance policy guide setting forth in plain language the requirements of such section 419 and to assist small entities in complying with standards for safe production and harvesting and other activities required under such section.

(c) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331), as amended by section 6103, is amended by adding at the end the following:

"(vv) The failure to comply with the requirements under section 419.".

(d) NO EFFECT ON HACCP AUTHORITIES.—Nothing in the amendments made by this section limits the authority of the Secretary under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or the Public Health Service Act (42 U.S.C. 201 et seq.) to revise, issue, or enforce product and category-specific regulations, such as the Seafood Hazard Analysis Critical Controls Points Program, the Juice Hazard Analysis Critical Control Program, and the Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards.

SEC. 6106. PROTECTION AGAINST INTENTIONAL ADULTERATION.

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 6105, is amended by adding at the end the following:

"SEC. 420. PROTECTION AGAINST INTENTIONAL ADULTERATION.

"(a) DETERMINATIONS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) conduct a vulnerability assessment of the food system, including by consideration of the Department of Homeland Security biological, chemical, radiological, or other terrorism risk assessments;

"(B) consider the best available understanding of uncertainties, risks, costs, and benefits associated with guarding against intentional adulteration of food at vulnerable points; and

"(C) determine the types of science-based mitigation strategies or measures that are necessary to protect against the intentional adulteration of food.

"(2) LIMITED DISTRIBUTION.—In the interest of national security, the Secretary, in consultation with the Secretary of Homeland Security, may determine the time, manner, and form in which determinations made under paragraph (1) are made publicly available.

"(b) REGULATIONS.—Not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary, in coordination with the Secretary of Homeland Security and in consultation with the Secretary of Agriculture, shall promulgate regulations to protect against the intentional adulteration of food subject to this Act. Such regulations shall—

"(1) specify how a person shall assess whether the person is required to implement mitigation strategies or measures intended to protect against the intentional adulteration of food; and

"(2) specify appropriate science-based mitigation strategies or measures to prepare and protect the food supply chain at specific vulnerable points, as appropriate.

"(c) APPLICABILITY.—Regulations promulgated under subsection (b) shall apply only to food for which there is a high risk of intentional contamination, as determined by the Secretary, in consultation with the Secretary of Homeland Security, under subsection (a), that could cause serious adverse health consequences or death to humans or animals and shall include those foods—

"(1) for which the Secretary has identified clear vulnerabilities (including short shelf-life or susceptibility to intentional contamination at critical control points); and

"(2) in bulk or batch form, prior to being packaged for the final consumer.

"(d) EXCEPTION.—This section shall not apply to farms, except for those that produce milk.

"(e) DEFINITION.—For purposes of this section, the term 'farm' has the meaning given that term in section 1.227 of title 21, Code of Federal Regulations (or any successor regulation).".

(b) GUIDANCE DOCUMENTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with the Secretary of Homeland Security and the Secretary of Agriculture, shall issue guidance documents related to protection against the intentional adulteration of food, including mitigation strategies or measures to guard against such adulteration as required under section 420 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a).

(2) CONTENT.—The guidance documents issued under paragraph (1) shall—

(A) include a model assessment for a person to use under subsection (b)(1) of section 420 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a);

(B) include examples of mitigation strategies or measures described in subsection (b)(2) of such section; and

(C) specify situations in which the examples of mitigation strategies or measures described in subsection (b)(2) of such section are appropriate.

(3) LIMITED DISTRIBUTION.—In the interest of national security, the Secretary of Health and Human Services, in consultation with the Secretary of Homeland Security, may determine the time, manner, and form in which the guidance documents issued under paragraph (1) are made public, including by releasing such documents to targeted audiences.

(c) PERIODIC REVIEW.—The Secretary of Health and Human Services shall periodically review and, as appropriate, update the regulations under section 420(b) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), and the guidance documents under subsection (b).

(d) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331 et seq.), as amended by section 6105, is amended by adding at the end the following:

"(ww) The failure to comply with section 420.".

SEC. 6107. AUTHORITY TO COLLECT FEES.

(a) FEES FOR REINSPECTION, RECALL, AND IMPORTATION ACTIVITIES.—Subchapter C of chapter VII (21 U.S.C. 379f et seq.) is amended by adding at the end the following:

"PART 6—FEES RELATED TO FOOD

"SEC. 743. AUTHORITY TO COLLECT AND USE FEES.

"(a) IN GENERAL.—

"(1) PURPOSE AND AUTHORITY.—For fiscal year 2010 and each subsequent fiscal year, the Secretary shall, in accordance with this section, assess and collect fees from—

"(A) the responsible party for each domestic facility (as defined in section 415(b)) and the United States agent for each foreign facility subject to a reinspection in such fiscal year, to cover reinspection-related costs for such year;

"(B) the responsible party for a domestic facility (as defined in section 415(b)) and an importer who does not comply with a recall order under section 423 or under section 412(f) in such fiscal year, to cover food recall activities associated with such order performed by the Secretary, including technical assistance, follow-up effectiveness checks, and public notifications, for such year;

"(C) each importer participating in the voluntary qualified importer program under section 806 in such year, to cover the administrative costs of such program for such year; and

"(D) each importer subject to a reinspection in such fiscal year, to cover reinspection-related costs for such year.

"(2) DEFINITIONS.—For purposes of this section—

"(A) the term 'reinspection' means—

"(i) with respect to domestic facilities (as defined in section 415(b)), 1 or more inspections conducted under section 704 subsequent to an inspection conducted under such provision which identified noncompliance materially related to a food safety requirement of this Act, specifically to determine whether compliance has been achieved to the Secretary's satisfaction; and

"(ii) with respect to importers, 1 or more examinations conducted under section 801 subsequent to an examination conducted under such provision which identified noncompliance materially related to a food safety requirement of this Act, specifically to determine whether compliance has been achieved to the Secretary's satisfaction;

"(B) the term 'reinspection-related costs' means all expenses, including administrative expenses, incurred in connection with—

"(i) arranging, conducting, and evaluating the results of reinspections; and

"(ii) assessing and collecting reinspection fees under this section; and

"(C) the term 'responsible party' has the meaning given such term in section 417(a)(1).

"(b) ESTABLISHMENT OF FEES.—

"(1) IN GENERAL.—Subject to subsections (c) and (d), the Secretary shall establish the fees to be collected under this section for each fiscal year specified in subsection (a)(1), based on the methodology described under paragraph (2), and shall publish such fees in a Federal Register notice not later than 60 days before the start of each such year.

"(2) FEE METHODOLOGY.—

"(A) FEES.—Fees amounts established for collection—

"(i) under subparagraph (A) of subsection (a)(1) for a fiscal year shall be based on the Secretary's estimate of 100 percent of the costs of the reinspection-related activities (including by type or level of reinspection activity, as the Secretary determines applicable) described in such subparagraph (A) for such year;

"(ii) under subparagraph (B) of subsection (a)(1) for a fiscal year shall be based on the Secretary's estimate of 100 percent of the costs of the activities described in such subparagraph (B) for such year;

"(iii) under subparagraph (C) of subsection (a)(1) for a fiscal year shall be based on the Secretary's estimate of 100 percent of the costs of the activities described in such subparagraph (C) for such year; and

"(iv) under subparagraph (D) of subsection (a)(1) for a fiscal year shall be based on the Secretary's estimate of 100 percent of the costs of the activities described in such subparagraph (D) for such year.

"(B) OTHER CONSIDERATIONS.—

"(i) VOLUNTARY QUALIFIED IMPORTER PROGRAM.—In establishing the fee amounts under subparagraph (A)(iii) for a fiscal year, the Secretary shall provide for the number of importers who have submitted to the Secretary a notice under section 806(c) informing the Secretary of the intent of such importer to participate in the program under section 806 in such fiscal year.

"(ii) CREDITING OF FEES.—In establishing the fee amounts under subparagraph (A) for a fiscal year, the Secretary shall provide for the crediting of fees from the previous year to the next year if the Secretary overestimated the amount of fees needed to carry out such activities, and consider the need to account for any adjustment of fees and such other factors as the Secretary determines appropriate.

"(iii) PUBLISHED GUIDELINES.—Not later than 180 days after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall publish

in the Federal Register a proposed set of guidelines in consideration of the burden of fee amounts on small business. Such consideration may include reduced fee amounts for small businesses. The Secretary shall provide for a period of public comment on such guidelines. The Secretary shall adjust the fee schedule for small businesses subject to such fees only through notice and comment rulemaking.

"(3) USE OF FEES.—The Secretary shall make all of the fees collected pursuant to clause (i), (ii), (iii), and (iv) of paragraph (2)(A) available solely to pay for the costs referred to in such clause (i), (ii), (iii), and (iv) of paragraph (2)(A), respectively.

"(c) LIMITATIONS.—

"(1) IN GENERAL.—Fees under subsection (a) shall be refunded for a fiscal year beginning after fiscal year 2010 unless the amount of the total appropriations for food safety activities at the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) is equal to or greater than the amount of appropriations for food safety activities at the Food and Drug Administration for fiscal year 2009 (excluding the amount of fees appropriated for such fiscal year), multiplied by the adjustment factor under paragraph (3).

"(2) AUTHORITY.—If—

"(A) the Secretary does not assess fees under subsection (a) for a portion of a fiscal year because paragraph (1) applies; and

"(B) at a later date in such fiscal year, such paragraph (1) ceases to apply,

the Secretary may assess and collect such fees under subsection (a), without any modification to the rate of such fees, notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.

"(3) ADJUSTMENT FACTOR.—

"(A) IN GENERAL.—The adjustment factor described in paragraph (1) shall be the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; United States city average) for the 12-month period ending June 30 preceding the fiscal year, but in no case shall such adjustment factor be negative.

"(B) COMPOUNDED BASIS.—The adjustment under subparagraph (A) made each fiscal year shall be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 2009.

"(4) LIMITATION ON AMOUNT OF CERTAIN FEES.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section and subject to subparagraph (B), the Secretary may not collect fees in a fiscal year such that the amount collected—

"(i) under subparagraph (B) of subsection (a)(1) exceeds $20,000,000; and

"(ii) under subparagraphs (A) and (D) of subsection (a)(1) exceeds $25,000,000 combined.

"(B) EXCEPTION.—If a domestic facility (as defined in section 415(b)) or an importer becomes subject to a fee de-

scribed in subparagraph (A), (B), or (D) of subsection (a)(1) after the maximum amount of fees has been collected by the Secretary under subparagraph (A), the Secretary may collect a fee from such facility or importer.

"(d) CREDITING AND AVAILABILITY OF FEES.—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in appropriations Acts. Such fees are authorized to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for the purpose of paying the operating expenses of the Food and Drug Administration employees and contractors performing activities associated with these food safety fees.

"(e) COLLECTION OF FEES.—

"(1) IN GENERAL.—The Secretary shall specify in the Federal Register notice described in subsection (b)(1) the time and manner in which fees assessed under this section shall be collected.

"(2) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under this section within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to provisions of subchapter II of chapter 37 of title 31, United States Code.

"(f) ANNUAL REPORT TO CONGRESS.—Not later than 120 days after each fiscal year for which fees are assessed under this section, the Secretary shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, to include a description of fees assessed and collected for each such year and a summary description of the entities paying such fees and the types of business in which such entities engage.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For fiscal year 2010 and each fiscal year thereafter, there is authorized to be appropriated for fees under this section an amount equal to the total revenue amount determined under subsection (b) for the fiscal year, as adjusted or otherwise affected under the other provisions of this section.".

(b) EXPORT CERTIFICATION FEES FOR FOODS AND ANIMAL FEED.—

(1) AUTHORITY FOR EXPORT CERTIFICATIONS FOR FOOD, INCLUDING ANIMAL FEED.—Section 801(e)(4)(A) (21 U.S.C. 381(e)(4)(A)) is amended—

(A) in the matter preceding clause (i), by striking "a drug" and inserting "a food, drug";

(B) in clause (i) by striking "exported drug" and inserting "exported food, drug"; and

(C) in clause (ii) by striking "the drug" each place it appears and inserting "the food, drug".

(2) CLARIFICATION OF CERTIFICATION.—Section 801(e)(4) (21 U.S.C. 381(e)(4)) is amended by inserting after subparagraph (B) the following new subparagraph:

"(C) For purposes of this paragraph, a certification by the Secretary shall be made on such basis, and in such form (including a

publicly available listing) as the Secretary determines appropriate.".

(3) LIMITATIONS ON USE AND AMOUNT OF FEES.—Paragraph (4) of section 801(e) (21 U.S.C. 381(e)) is amended by adding at the end the following:

"(D) With regard to fees pursuant to subparagraph (B) in connection with written export certifications for food:

"(i) Such fees shall be collected and available solely for the costs of the Food and Drug Administration associated with issuing such certifications.

"(ii) Such fees may not be retained in an amount that exceeds such costs.".

SEC. 6108. NATIONAL AGRICULTURE AND FOOD DEFENSE STRATEGY.

(a) DEVELOPMENT AND SUBMISSION OF STRATEGY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services and the Secretary of Agriculture, in coordination with the Secretary of Homeland Security, shall prepare and transmit to the relevant committees of Congress, and make publicly available on the Internet Web sites of the Department of Health and Human Services and the Department of Agriculture, the National Agriculture and Food Defense Strategy.

(2) IMPLEMENTATION PLAN.—The strategy shall include an implementation plan for use by the Secretaries described under paragraph (1) in carrying out the strategy.

(3) RESEARCH.—The strategy shall include a coordinated research agenda for use by the Secretaries described under paragraph (1) in conducting research to support the goals and activities described in paragraphs (1) and (2) of subsection (b).

(4) REVISIONS.—Not later than 4 years after the date on which the strategy is submitted to the relevant committees of Congress under paragraph (1), and not less frequently than every 4 years thereafter, the Secretary of Health and Human Services and the Secretary of Agriculture, in coordination with the Secretary of Homeland Security, shall revise and submit to the relevant committees of Congress the strategy.

(5) CONSISTENCY WITH EXISTING PLANS.—The strategy described in paragraph (1) shall be consistent with—

(A) the National Incident Management System;

(B) the National Response Framework;

(C) the National Infrastructure Protection Plan;

(D) the National Preparedness Goals; and

(E) other relevant national strategies.

(b) COMPONENTS.—

(1) IN GENERAL.—The strategy shall include a description of the process to be used by the Department of Health and Human Services, the Department of Agriculture, and the Department of Homeland Security—

(A) to achieve each goal described in paragraph (2); and

(B) to evaluate the progress made by Federal, State, local, and tribal governments towards the achievement of each goal described in paragraph (2).

(2) GOALS.—The strategy shall include a description of the process to be used by the Department of Health and Human

Services, the Department of Agriculture, and the Department of Homeland Security to achieve the following goals:

(A) PREPAREDNESS GOAL.—Enhance the preparedness of the agriculture and food system by—

(i) conducting vulnerability assessments of the agriculture and food system;

(ii) mitigating vulnerabilities of the system;

(iii) improving communication and training relating to the system;

(iv) developing and conducting exercises to test decontamination and disposal plans;

(v) developing modeling tools to improve event consequence assessment and decision support; and

(vi) preparing risk communication tools and enhancing public awareness through outreach.

(B) DETECTION GOAL.—Improve agriculture and food system detection capabilities by—

(i) identifying contamination in food products at the earliest possible time; and

(ii) conducting surveillance to prevent the spread of diseases.

(C) EMERGENCY RESPONSE GOAL.—Ensure an efficient response to agriculture and food emergencies by—

(i) immediately investigating animal disease outbreaks and suspected food contamination;

(ii) preventing additional human illnesses;

(iii) organizing, training, and equipping animal, plant, and food emergency response teams of—

(I) the Federal Government; and

(II) State, local, and tribal governments;

(iv) designing, developing, and evaluating training and exercises carried out under agriculture and food defense plans; and

(v) ensuring consistent and organized risk communication to the public by—

(I) the Federal Government;

(II) State, local, and tribal governments; and

(III) the private sector.

(D) RECOVERY GOAL.—Secure agriculture and food production after an agriculture or food emergency by—

(i) working with the private sector to develop business recovery plans to rapidly resume agriculture, food production, and international trade;

(ii) conducting exercises of the plans described in subparagraph (C) with the goal of long-term recovery results;

(iii) rapidly removing, and effectively disposing of—

(I) contaminated agriculture and food products; and

(II) infected plants and animals; and

(iv) decontaminating and restoring areas affected by an agriculture or food emergency.

(3) EVALUATION.—The Secretary, in coordination with the Secretary of Agriculture and the Secretary of Homeland Security, shall—

(A) develop metrics to measure progress for the evaluation process described in paragraph (1)(B); and

(B) report on the progress measured in subparagraph (A) as part of the National Agriculture and Food Defense strategy described in subsection (a)(1).

(c) LIMITED DISTRIBUTION.—In the interest of national security, the Secretary of Health and Human Services and the Secretary of Agriculture, in coordination with the Secretary of Homeland Security, may determine the manner and format in which the National Agriculture and Food Defense strategy established under this section is made publicly available on the Internet Web sites of the Department of Health and Human Services, the Department of Homeland Security, and the Department of Agriculture, as described in subsection (a)(1).

SEC. 6109. FOOD AND AGRICULTURE COORDINATING COUNCILS.

The Secretary of Homeland Security, in coordination with the Secretary of Health and Human Services and the Secretary of Agriculture, shall within 180 days of enactment of this Act, and annually thereafter, submit to the relevant committees of Congress, and make publicly available on the Internet Web site of the Department of Homeland Security, a report on the activities of the Food and Agriculture Government Coordinating Council and the Food and Agriculture Sector Coordinating Council, including the progress of such Councils on—

(1) facilitating partnerships between public and private entities to help coordinate and enhance the protection of the agriculture and food system of the United States;

(2) providing for the regular and timely interchange of information between each council relating to the security of the agriculture and food system (including intelligence information);

(3) identifying best practices and methods for improving the coordination among Federal, State, local, and private sector preparedness and response plans for agriculture and food defense; and

(4) recommending methods by which to protect the economy and the public health of the United States from the effects of—

(A) animal or plant disease outbreaks;

(B) food contamination; and

(C) natural disasters affecting agriculture and food.

SEC. 6110. BUILDING DOMESTIC CAPACITY.

(a) IN GENERAL.—

(1) INITIAL REPORT.—The Secretary, in coordination with the Secretary of Agriculture and the Secretary of Homeland Security, shall, not later than 2 years after the date of enactment of this Act, submit to Congress a comprehensive report that identifies programs and practices that are intended to promote the safety and supply chain security of food and to prevent outbreaks of foodborne illness and other food-related hazards that can be addressed through preventive activities. Such report shall include a description of the following:

(A) Analysis of the need for further regulations or guidance to industry.

(B) Outreach to food industry sectors, including through the Food and Agriculture Coordinating Councils referred

to in section 6109, to identify potential sources of emerging threats to the safety and security of the food supply and preventive strategies to address those threats.

(C) Systems to ensure the prompt distribution to the food industry of information and technical assistance concerning preventive strategies.

(D) Communication systems to ensure that information about specific threats to the safety and security of the food supply are rapidly and effectively disseminated.

(E) Surveillance systems and laboratory networks to rapidly detect and respond to foodborne illness outbreaks and other food-related hazards, including how such systems and networks are integrated.

(F) Outreach, education, and training provided to States and local governments to build State and local food safety and food defense capabilities, including progress implementing strategies developed under sections 6108 and 6205.

(G) The estimated resources needed to effectively implement the programs and practices identified in the report developed in this section over a 5-year period.

(H) The impact of requirements under this Act (including amendments made by this Act) on certified organic farms and facilities (as defined in section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d)).

(I) Specific efforts taken pursuant to the agreements authorized under section 421(c) of the Federal Food, Drug, and Cosmetic Act (as added by section 6201), together with, as necessary, a description of any additional authorities necessary to improve seafood safety.

(2) BIENNIAL REPORTS.—On a biennial basis following the submission of the report under paragraph (1), the Secretary shall submit to Congress a report that—

(A) reviews previous food safety programs and practices;

(B) outlines the success of those programs and practices;

(C) identifies future programs and practices; and

(D) includes information related to any matter described in subparagraphs (A) through (H) of paragraph (1), as necessary.

(b) RISK-BASED ACTIVITIES.—The report developed under subsection (a)(1) shall describe methods that seek to ensure that resources available to the Secretary for food safety-related activities are directed at those actions most likely to reduce risks from food, including the use of preventive strategies and allocation of inspection resources. The Secretary shall promptly undertake those risk-based actions that are identified during the development of the report as likely to contribute to the safety and security of the food supply.

(c) CAPABILITY FOR LABORATORY ANALYSES; RESEARCH.—The report developed under subsection (a)(1) shall provide a description of methods to increase capacity to undertake analyses of food samples promptly after collection, to identify new and rapid analytical techniques, including commercially available techniques that can be employed at ports of entry and by Food Emergency Response Network laboratories, and to provide for well-equipped and staffed

laboratory facilities and progress toward laboratory accreditation under section 422 of the Federal Food, Drug, and Cosmetic Act (as added by section 6202).

(d) INFORMATION TECHNOLOGY.—The report developed under subsection (a)(1) shall include a description of such information technology systems as may be needed to identify risks and receive data from multiple sources, including foreign governments, State, local, and tribal governments, other Federal agencies, the food industry, laboratories, laboratory networks, and consumers. The information technology systems that the Secretary describes shall also provide for the integration of the facility registration system under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), and the prior notice system under section 801(m) of such Act (21 U.S.C. 381(m)) with other information technology systems that are used by the Federal Government for the processing of food offered for import into the United States.

(e) AUTOMATED RISK ASSESSMENT.—The report developed under subsection (a)(1) shall include a description of progress toward developing and improving an automated risk assessment system for food safety surveillance and allocation of resources.

(f) TRACEBACK AND SURVEILLANCE REPORT.—The Secretary shall include in the report developed under subsection (a)(1) an analysis of the Food and Drug Administration's performance in foodborne illness outbreaks during the 5-year period preceding the date of enactment of this Act involving fruits and vegetables that are raw agricultural commodities (as defined in section 6201(r) (21 U.S.C. 321(r)) and recommendations for enhanced surveillance, outbreak response, and traceability. Such findings and recommendations shall address communication and coordination with the public, industry, and State and local governments, as such communication and coordination relates to outbreak identification and traceback.

(g) BIENNIAL FOOD SAFETY AND FOOD DEFENSE RESEARCH PLAN.—The Secretary, the Secretary of Agriculture, and the Secretary of Homeland Security shall, on a biennial basis, submit to Congress a joint food safety and food defense research plan which may include studying the long-term health effects of foodborne illness. Such biennial plan shall include a list and description of projects conducted during the previous 2-year period and the plan for projects to be conducted during the subsequent 2-year period.

(h) EFFECTIVENESS OF PROGRAMS ADMINISTERED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—

(1) IN GENERAL.—To determine whether existing Federal programs administered by the Department of Health and Human Services are effective in achieving the stated goals of such programs, the Secretary shall, beginning not later than 1 year after the date of enactment of this Act—

(A) conduct an annual evaluation of each program of such Department to determine the effectiveness of each such program in achieving legislated intent, purposes, and objectives; and

(B) submit to Congress a report concerning such evaluation.

(2) CONTENT.—The report described under paragraph (1)(B) shall—

(A) include conclusions concerning the reasons that such existing programs have proven successful or not successful and what factors contributed to such conclusions;

(B) include recommendations for consolidation and elimination to reduce duplication and inefficiencies in such programs at such Department as identified during the evaluation conduct under this subsection; and

(C) be made publicly available in a publication entitled "Guide to the U.S. Department of Health and Human Services Programs".

(i) UNIQUE IDENTIFICATION NUMBERS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Commissioner of Food and Drugs, shall conduct a study regarding the need for, and challenges associated with, development and implementation of a program that requires a unique identification number for each food facility registered with the Secretary and, as appropriate, each broker that imports food into the United States. Such study shall include an evaluation of the costs associated with development and implementation of such a system, and make recommendations about what new authorities, if any, would be necessary to develop and implement such a system.

(2) REPORT.—Not later than 15 months after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the findings of the study conducted under paragraph (1) and that includes any recommendations determined appropriate by the Secretary.

SEC. 6111. SANITARY TRANSPORTATION OF FOOD.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate regulations described in section 416(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350e(b)).

(b) FOOD TRANSPORTATION STUDY.—The Secretary, acting through the Commissioner of Food and Drugs, shall conduct a study of the transportation of food for consumption in the United States, including transportation by air, that includes an examination of the unique needs of rural and frontier areas with regard to the delivery of safe food.

SEC. 6112. FOOD ALLERGY AND ANAPHYLAXIS MANAGEMENT.

(a) DEFINITIONS.—In this section:

(1) EARLY CHILDHOOD EDUCATION PROGRAM.—The term "early childhood education program" means—

(A) a Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.);

(B) a State licensed or regulated child care program or school; or

(C) a State prekindergarten program that serves children from birth through kindergarten.

(2) ESEA DEFINITIONS.—The terms "local educational agency", "secondary school", "elementary school", and "parent" have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) SCHOOL.—The term "school" includes public—
(A) kindergartens;
(B) elementary schools; and
(C) secondary schools.
(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.
(b) ESTABLISHMENT OF VOLUNTARY FOOD ALLERGY AND ANAPHYLAXIS MANAGEMENT GUIDELINES.—
(1) ESTABLISHMENT.—
(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Education, shall—
(i) develop guidelines to be used on a voluntary basis to develop plans for individuals to manage the risk of food allergy and anaphylaxis in schools and early childhood education programs; and
(ii) make such guidelines available to local educational agencies, schools, early childhood education programs, and other interested entities and individuals to be implemented on a voluntary basis only.
(B) APPLICABILITY OF FERPA.—Each plan described in subparagraph (A) that is developed for an individual shall be considered an education record for the purpose of section 444 of the General Education Provisions Act (commonly referred to as the "Family Educational Rights and Privacy Act of 1974") (20 U.S.C. 1232g).
(2) CONTENTS.—The voluntary guidelines developed by the Secretary under paragraph (1) shall address each of the following and may be updated as the Secretary determines necessary:
(A) Parental obligation to provide the school or early childhood education program, prior to the start of every school year, with—
(i) documentation from their child's physician or nurse—
(I) supporting a diagnosis of food allergy, and any risk of anaphylaxis, if applicable;
(II) identifying any food to which the child is allergic;
(III) describing, if appropriate, any prior history of anaphylaxis;
(IV) listing any medication prescribed for the child for the treatment of anaphylaxis;
(V) detailing emergency treatment procedures in the event of a reaction;
(VI) listing the signs and symptoms of a reaction; and
(VII) assessing the child's readiness for self-administration of prescription medication; and
(ii) a list of substitute meals that may be offered to the child by school or early childhood education program food service personnel.
(B) The creation and maintenance of an individual plan for food allergy management, in consultation with the parent, tailored to the needs of each child with a documented

risk for anaphylaxis, including any procedures for the self-administration of medication by such children in instances where—

(i) the children are capable of self-administering medication; and

(ii) such administration is not prohibited by State law.

(C) Communication strategies between individual schools or early childhood education programs and providers of emergency medical services, including appropriate instructions for emergency medical response.

(D) Strategies to reduce the risk of exposure to anaphylactic causative agents in classrooms and common school or early childhood education program areas such as cafeterias.

(E) The dissemination of general information on life-threatening food allergies to school or early childhood education program staff, parents, and children.

(F) Food allergy management training of school or early childhood education program personnel who regularly come into contact with children with life-threatening food allergies.

(G) The authorization and training of school or early childhood education program personnel to administer epinephrine when the nurse is not immediately available.

(H) The timely accessibility of epinephrine by school or early childhood education program personnel when the nurse is not immediately available.

(I) The creation of a plan contained in each individual plan for food allergy management that addresses the appropriate response to an incident of anaphylaxis of a child while such child is engaged in extracurricular programs of a school or early childhood education program, such as nonacademic outings and field trips, before- and after-school programs or before- and after-early child education program programs, and school-sponsored or early childhood education program-sponsored programs held on weekends.

(J) Maintenance of information for each administration of epinephrine to a child at risk for anaphylaxis and prompt notification to parents.

(K) Other elements the Secretary determines necessary for the management of food allergies and anaphylaxis in schools and early childhood education programs.

(3) RELATION TO STATE LAW.—Nothing in this section or the guidelines developed by the Secretary under paragraph (1) shall be construed to preempt State law, including any State law regarding whether students at risk for anaphylaxis may self-administer medication.

(c) SCHOOL-BASED FOOD ALLERGY MANAGEMENT GRANTS.—

(1) IN GENERAL.—The Secretary may award grants to local educational agencies to assist such agencies with implementing voluntary food allergy and anaphylaxis management guidelines described in subsection (b).

(2) APPLICATION.—

(A) IN GENERAL.—To be eligible to receive a grant under this subsection, a local educational agency shall submit an application to the Secretary at such time, in such manner, and including such information as the Secretary may reasonably require.

(B) CONTENTS.—Each application submitted under subparagraph (A) shall include—

(i) an assurance that the local educational agency has developed plans in accordance with the food allergy and anaphylaxis management guidelines described in subsection (b);

(ii) a description of the activities to be funded by the grant in carrying out the food allergy and anaphylaxis management guidelines, including—

(I) how the guidelines will be carried out at individual schools served by the local educational agency;

(II) how the local educational agency will inform parents and students of the guidelines in place;

(III) how school nurses, teachers, administrators, and other school-based staff will be made aware of, and given training on, when applicable, the guidelines in place; and

(IV) any other activities that the Secretary determines appropriate;

(iii) an itemization of how grant funds received under this subsection will be expended;

(iv) a description of how adoption of the guidelines and implementation of grant activities will be monitored; and

(v) an agreement by the local educational agency to report information required by the Secretary to conduct evaluations under this subsection.

(3) USE OF FUNDS.—Each local educational agency that receives a grant under this subsection may use the grant funds for the following:

(A) Purchase of materials and supplies, including limited medical supplies such as epinephrine and disposable wet wipes, to support carrying out the food allergy and anaphylaxis management guidelines described in subsection (b).

(B) In partnership with local health departments, school nurse, teacher, and personnel training for food allergy management.

(C) Programs that educate students as to the presence of, and policies and procedures in place related to, food allergies and anaphylactic shock.

(D) Outreach to parents.

(E) Any other activities consistent with the guidelines described in subsection (b).

(4) DURATION OF AWARDS.—The Secretary may award grants under this subsection for a period of not more than 2 years. In the event the Secretary conducts a program evaluation under this subsection, funding in the second year of the grant, where

applicable, shall be contingent on a successful program evaluation by the Secretary after the first year.

(5) LIMITATION ON GRANT FUNDING.—The Secretary may not provide grant funding to a local educational agency under this subsection after such local educational agency has received 2 years of grant funding under this subsection.

(6) MAXIMUM AMOUNT OF ANNUAL AWARDS.—A grant awarded under this subsection may not be made in an amount that is more than $50,000 annually.

(7) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to local educational agencies with the highest percentages of children who are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)).

(8) MATCHING FUNDS.—

(A) IN GENERAL.—The Secretary may not award a grant under this subsection unless the local educational agency agrees that, with respect to the costs to be incurred by such local educational agency in carrying out the grant activities, the local educational agency shall make available (directly or through donations from public or private entities) non-Federal funds toward such costs in an amount equal to not less than 25 percent of the amount of the grant.

(B) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal funds required under subparagraph (A) may be cash or in kind, including plant, equipment, or services. Amounts provided by the Federal Government, and any portion of any service subsidized by the Federal Government, may not be included in determining the amount of such non-Federal funds.

(9) ADMINISTRATIVE FUNDS.—A local educational agency that receives a grant under this subsection may use not more than 2 percent of the grant amount for administrative costs related to carrying out this subsection.

(10) PROGRESS AND EVALUATIONS.—At the completion of the grant period referred to in paragraph (4), a local educational agency shall provide the Secretary with information on how grant funds were spent and the status of implementation of the food allergy and anaphylaxis management guidelines described in subsection (b).

(11) SUPPLEMENT, NOT SUPPLANT.—Grant funds received under this subsection shall be used to supplement, and not supplant, non-Federal funds and any other Federal funds available to carry out the activities described in this subsection.

(12) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $30,000,000 for fiscal year 2011 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(d) VOLUNTARY NATURE OF GUIDELINES.—

(1) IN GENERAL.—The food allergy and anaphylaxis management guidelines developed by the Secretary under subsection (b) are voluntary. Nothing in this section or the guidelines developed by the Secretary under subsection (b) shall be con-

strued to require a local educational agency to implement such guidelines.

(2) EXCEPTION.—Notwithstanding paragraph (1), the Secretary may enforce an agreement by a local educational agency to implement food allergy and anaphylaxis management guidelines as a condition of the receipt of a grant under subsection (c).

SEC. 6113. NEW DIETARY INGREDIENTS.

(a) IN GENERAL.—Section 413 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350b) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) NOTIFICATION.—

"(1) IN GENERAL.—If the Secretary determines that the information in a new dietary ingredient notification submitted under this section for an article purported to be a new dietary ingredient is inadequate to establish that a dietary supplement containing such article will reasonably be expected to be safe because the article may be, or may contain, an anabolic steroid or an analogue of an anabolic steroid, the Secretary shall notify the Drug Enforcement Administration of such determination. Such notification by the Secretary shall include, at a minimum, the name of the dietary supplement or article, the name of the person or persons who marketed the product or made the submission of information regarding the article to the Secretary under this section, and any contact information for such person or persons that the Secretary has.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'anabolic steroid' has the meaning given such term in section 102(41) of the Controlled Substances Act; and

"(B) the term 'analogue of an anabolic steroid' means a substance whose chemical structure is substantially similar to the chemical structure of an anabolic steroid.".

(b) GUIDANCE.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish guidance that clarifies when a dietary supplement ingredient is a new dietary ingredient, when the manufacturer or distributor of a dietary ingredient or dietary supplement should provide the Secretary with information as described in section 413(a)(2) of the Federal Food, Drug, and Cosmetic Act, the evidence needed to document the safety of new dietary ingredients, and appropriate methods for establishing the identify of a new dietary ingredient.

SEC. 6114. REQUIREMENT FOR GUIDANCE RELATING TO POST-HARVEST PROCESSING OF RAW OYSTERS.

(a) IN GENERAL.—Not later than 90 days prior to the issuance of any guidance, regulation, or suggested amendment by the Food and Drug Administration to the National Shellfish Sanitation Program's Model Ordinance, or the issuance of any guidance or regulation by the Food and Drug Administration relating to the Seafood Hazard Analysis Critical Control Points Program of the Food and Drug Administration (parts 123 and 1240 of title 21, Code of Federal Regulations (or any successor regulations), where such guidance, regulation, or suggested amendment relates to post-harvest

processing for raw oysters, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report which shall include—

(1) an assessment of how post-harvest processing or other equivalent controls feasibly may be implemented in the fastest, safest, and most economical manner;

(2) the projected public health benefits of any proposed post-harvest processing;

(3) the projected costs of compliance with such post-harvest processing measures;

(4) the impact post-harvest processing is expected to have on the sales, cost, and availability of raw oysters;

(5) criteria for ensuring post-harvest processing standards will be applied equally to shellfish imported from all nations of origin;

(6) an evaluation of alternative measures to prevent, eliminate, or reduce to an acceptable level the occurrence of foodborne illness; and

(7) the extent to which the Food and Drug Administration has consulted with the States and other regulatory agencies, as appropriate, with regard to post-harvest processing measures.

(b) LIMITATION.—Subsection (a) shall not apply to the guidance described in section 6103(h).

(c) REVIEW AND EVALUATION.—Not later than 30 days after the Secretary issues a proposed regulation or guidance described in subsection (a), the Comptroller General of the United States shall—

(1) review and evaluate the report described in subsection (a) and report to Congress on the findings of the estimates and analysis in the report;

(2) compare such proposed regulation or guidance to similar regulations or guidance with respect to other regulated foods, including a comparison of risks the Secretary may find associated with seafood and the instances of those risks in such other regulated foods; and

(3) evaluate the impact of post-harvest processing on the competitiveness of the domestic oyster industry in the United States and in international markets.

(d) WAIVER.—The requirement of preparing a report under subsection (a) shall be waived if the Secretary issues a guidance that is adopted as a consensus agreement between Federal and State regulators and the oyster industry, acting through the Interstate Shellfish Sanitation Conference.

(e) PUBLIC ACCESS.—Any report prepared under this section shall be made available to the public.

SEC. 6115. PORT SHOPPING.

Until the date on which the Secretary promulgates a final rule that implements the amendments made by section 308 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188), the Secretary shall notify the Secretary of Homeland Security of all instances in which the Secretary refuses to admit a food into the United States under section 801(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)) so that the Secretary of Homeland Security, acting through

the Commissioner of Customs and Border Protection, may prevent food refused admittance into the United States by a United States port of entry from being admitted by another United States port of entry, through the notification of other such United States ports of entry.

SEC. 6116. ALCOHOL-RELATED FACILITIES.

(a) IN GENERAL.—Except as provided by sections 6102, 6206, 6207, 6302, 6304, 6402, 6403, and 6404 of this Act, and the amendments made by such sections, nothing in this Act, or the amendments made by this Act, shall be construed to apply to a facility that—

(1) under the Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) or chapter 51 of subtitle E of the Internal Revenue Code of 1986 (26 U.S.C. 5001 et seq.) is required to obtain a permit or to register with the Secretary of the Treasury as a condition of doing business in the United States; and

(2) under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d) is required to register as a facility because such facility is engaged in manufacturing, processing, packing, or holding 1 or more alcoholic beverages, with respect to the activities of such facility that relate to the manufacturing, processing, packing, or holding of alcoholic beverages.

(b) LIMITED RECEIPT AND DISTRIBUTION OF NONALCOHOL FOOD.—Subsection (a) shall not apply to a facility engaged in the receipt and distribution of any nonalcohol food, except that such paragraph shall apply to a facility described in such paragraph that receives and distributes nonalcohol food, provided such food is received and distributed—

(1) in a prepackaged form that prevents any direct human contact with such food; and

(2) in amounts that constitute not more than 5 percent of the overall sales of such facility, as determined by the Secretary of the Treasury.

(c) RULE OF CONSTRUCTION.—Except as provided in subsections (a) and (b), this section shall not be construed to exempt any food, other than alcoholic beverages, as defined in section 214 of the Federal Alcohol Administration Act (27 U.S.C. 214), from the requirements of this Act (including the amendments made by this Act).

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.

(a) TARGETING OF INSPECTION RESOURCES FOR DOMESTIC FACILITIES, FOREIGN FACILITIES, AND PORTS OF ENTRY.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 6106, is amended by adding at the end the following:

"SEC. 421. TARGETING OF INSPECTION RESOURCES FOR DOMESTIC FACILITIES, FOREIGN FACILITIES, AND PORTS OF ENTRY; ANNUAL REPORT.

"(a) IDENTIFICATION AND INSPECTION OF FACILITIES.—

"(1) IDENTIFICATION.—The Secretary shall identify high-risk facilities and shall allocate resources to inspect facilities according to the known safety risks of the facilities, which shall be based on the following factors:

"(A) The known safety risks of the food manufactured, processed, packed, or held at the facility.

"(B) The compliance history of a facility, including with regard to food recalls, outbreaks of foodborne illness, and violations of food safety standards.

"(C) The rigor and effectiveness of the facility's hazard analysis and risk-based preventive controls.

"(D) Whether the food manufactured, processed, packed, or held at the facility meets the criteria for priority under section 801(h)(1).

"(E) Whether the food or the facility that manufactured, processed, packed, or held such food has received a certification as described in section 801(q) or 806, as appropriate.

"(F) Any other criteria deemed necessary and appropriate by the Secretary for purposes of allocating inspection resources.

"(2) INSPECTIONS.—

"(A) IN GENERAL.—Beginning on the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall increase the frequency of inspection of all facilities.

"(B) DOMESTIC HIGH-RISK FACILITIES.—The Secretary shall increase the frequency of inspection of domestic facilities identified under paragraph (1) as high-risk facilities such that each such facility is inspected—

"(i) not less often than once in the 5-year period following the date of enactment of the FDA Food Safety Modernization Act; and

"(ii) not less often than once every 3 years thereafter.

"(C) DOMESTIC NON-HIGH-RISK FACILITIES.—The Secretary shall ensure that each domestic facility that is not identified under paragraph (1) as a high-risk facility is inspected—

"(i) not less often than once in the 7-year period following the date of enactment of the FDA Food Safety Modernization Act; and

"(ii) not less often than once every 5 years thereafter.

"(D) FOREIGN FACILITIES.—

"(i) YEAR 1.—In the 1-year period following the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall inspect not fewer than 600 foreign facilities.

"(ii) SUBSEQUENT YEARS.—In each of the 5 years following the 1-year period described in clause (i), the Secretary shall inspect not fewer than twice the number of foreign facilities inspected by the Secretary during the previous year.

"(E) RELIANCE ON FEDERAL, STATE, OR LOCAL INSPECTIONS.—In meeting the inspection requirements under this

subsection for domestic facilities, the Secretary may rely on inspections conducted by other Federal, State, or local agencies under interagency agreements, contracts, memoranda of understanding, or other obligations.

"(b) IDENTIFICATION AND INSPECTION AT PORTS OF ENTRY.—The Secretary, in consultation with the Secretary of Homeland Security, shall allocate resources to inspect any article of food imported into the United States according to the known safety risks of the article of food, which shall be based on the following factors:

"(1) The known safety risks of the food imported.

"(2) The known safety risks of the countries or regions of origin and countries through which such article of food is transported.

"(3) The compliance history of the importer, including with regard to food recalls, outbreaks of foodborne illness, and violations of food safety standards.

"(4) The rigor and effectiveness of the activities conducted by the importer of such article of food to satisfy the requirements of the foreign supplier verification program under section 805.

"(5) Whether the food importer participates in the voluntary qualified importer program under section 806.

"(6) Whether the food meets the criteria for priority under section 801(h)(1).

"(7) Whether the food or the facility that manufactured, processed, packed, or held such food received a certification as described in section 801(q) or 806.

"(8) Any other criteria deemed necessary and appropriate by the Secretary for purposes of allocating inspection resources.

"(c) INTERAGENCY AGREEMENTS WITH RESPECT TO SEAFOOD.—

"(1) IN GENERAL.—The Secretary of Health and Human Services, the Secretary of Commerce, the Secretary of Homeland Security, the Chairman of the Federal Trade Commission, and the heads of other appropriate agencies may enter into such agreements as may be necessary or appropriate to improve seafood safety.

"(2) SCOPE OF AGREEMENTS.—The agreements under paragraph (1) may include—

"(A) cooperative arrangements for examining and testing seafood imports that leverage the resources, capabilities, and authorities of each party to the agreement;

"(B) coordination of inspections of foreign facilities to increase the percentage of imported seafood and seafood facilities inspected;

"(C) standardization of data on seafood names, inspection records, and laboratory testing to improve interagency coordination;

"(D) coordination to detect and investigate violations under applicable Federal law;

"(E) a process, including the use or modification of existing processes, by which officers and employees of the National Oceanic and Atmospheric Administration may be duly designated by the Secretary to carry out seafood examinations and investigations under section 801 of this Act or section 203 of the Food Allergen Labeling and Consumer Protection Act of 2004;

"(F) the sharing of information concerning observed noncompliance with United States food requirements domestically and in foreign nations and new regulatory decisions and policies that may affect the safety of food imported into the United States;

"(G) conducting joint training on subjects that affect and strengthen seafood inspection effectiveness by Federal authorities; and

"(H) outreach on Federal efforts to enhance seafood safety and compliance with Federal food safety requirements.

"(d) COORDINATION.—The Secretary shall improve coordination and cooperation with the Secretary of Agriculture and the Secretary of Homeland Security to target food inspection resources.

"(e) FACILITY.—For purposes of this section, the term 'facility' means a domestic facility or a foreign facility that is required to register under section 415.".

(b) ANNUAL REPORT.—Section 1003 (21 U.S.C. 393) is amended by adding at the end the following:

"(h) ANNUAL REPORT REGARDING FOOD.—Not later than February 1 of each year, the Secretary shall submit to Congress a report, including efforts to coordinate and cooperate with other Federal agencies with responsibilities for food inspections, regarding—

"(1) information about food facilities including—

"(A) the appropriations used to inspect facilities registered pursuant to section 415 in the previous fiscal year;

"(B) the average cost of both a non-high-risk food facility inspection and a high-risk food facility inspection, if such a difference exists, in the previous fiscal year;

"(C) the number of domestic facilities and the number of foreign facilities registered pursuant to section 415 that the Secretary inspected in the previous fiscal year;

"(D) the number of domestic facilities and the number of foreign facilities registered pursuant to section 415 that were scheduled for inspection in the previous fiscal year and which the Secretary did not inspect in such year;

"(E) the number of high-risk facilities identified pursuant to section 421 that the Secretary inspected in the previous fiscal year; and

"(F) the number of high-risk facilities identified pursuant to section 421 that were scheduled for inspection in the previous fiscal year and which the Secretary did not inspect in such year.

"(2) information about food imports including—

"(A) the number of lines of food imported into the United States that the Secretary physically inspected or sampled in the previous fiscal year;

"(B) the number of lines of food imported into the United States that the Secretary did not physically inspect or sample in the previous fiscal year; and

"(C) the average cost of physically inspecting or sampling a line of food subject to this Act that is imported or offered for import into the United States; and

"(3) information on the foreign offices of the Food and Drug Administration including—

"(A) the number of foreign offices established; and

"(B) the number of personnel permanently stationed in each foreign office.

"(i) PUBLIC AVAILABILITY OF ANNUAL FOOD REPORTS.—The Secretary shall make the reports required under subsection (h) available to the public on the Internet Web site of the Food and Drug Administration.".

(c) ADVISORY COMMITTEE CONSULTATION.—In allocating inspection resources as described in section 421 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)), the Secretary may, as appropriate, consult with any relevant advisory committee within the Department of Health and Human Services.

SEC. 6202. LABORATORY ACCREDITATION FOR ANALYSES OF FOODS.

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 6201, is amended by adding at the end the following:

"SEC. 422. LABORATORY ACCREDITATION FOR ANALYSES OF FOODS.

"(a) RECOGNITION OF LABORATORY ACCREDITATION.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall—

"(A) establish a program for the testing of food by accredited laboratories;

"(B) establish a publicly available registry of accreditation bodies recognized by the Secretary and laboratories accredited by a recognized accreditation body, including the name of, contact information for, and other information deemed appropriate by the Secretary about such bodies and laboratories; and

"(C) require, as a condition of recognition or accreditation, as appropriate, that recognized accreditation bodies and accredited laboratories report to the Secretary any changes that would affect the recognition of such accreditation body or the accreditation of such laboratory.

"(2) PROGRAM REQUIREMENTS.—The program established under paragraph (1)(A) shall provide for the recognition of laboratory accreditation bodies that meet criteria established by the Secretary for accreditation of laboratories, including independent private laboratories and laboratories run and operated by a Federal agency (including the Department of Commerce), State, or locality with a demonstrated capability to conduct 1 or more sampling and analytical testing methodologies for food.

"(3) INCREASING THE NUMBER OF QUALIFIED LABORATORIES.—The Secretary shall work with the laboratory accreditation bodies recognized under paragraph (1), as appropriate, to increase the number of qualified laboratories that are eligible to perform testing under subsection (b) beyond the number so qualified on the date of enactment of the FDA Food Safety Modernization Act.

"(4) LIMITED DISTRIBUTION.—In the interest of national security, the Secretary, in coordination with the Secretary of Homeland Security, may determine the time, manner, and form in which the registry established under paragraph (1)(B) is made publicly available.

"(5) FOREIGN LABORATORIES.—Accreditation bodies recognized by the Secretary under paragraph (1) may accredit lab-

oratories that operate outside the United States, so long as such laboratories meet the accreditation standards applicable to domestic laboratories accredited under this section.

"(6) MODEL LABORATORY STANDARDS.—The Secretary shall develop model standards that a laboratory shall meet to be accredited by a recognized accreditation body for a specified sampling or analytical testing methodology and included in the registry provided for under paragraph (1). In developing the model standards, the Secretary shall consult existing standards for guidance. The model standards shall include—

"(A) methods to ensure that—

"(i) appropriate sampling, analytical procedures (including rapid analytical procedures), and commercially available techniques are followed and reports of analyses are certified as true and accurate;

"(ii) internal quality systems are established and maintained;

"(iii) procedures exist to evaluate and respond promptly to complaints regarding analyses and other activities for which the laboratory is accredited; and

"(iv) individuals who conduct the sampling and analyses are qualified by training and experience to do so; and

"(B) any other criteria determined appropriate by the Secretary.

"(7) REVIEW OF RECOGNITION.—To ensure compliance with the requirements of this section, the Secretary—

"(A) shall periodically, and in no case less than once every 5 years, reevaluate accreditation bodies recognized under paragraph (1) and may accompany auditors from an accreditation body to assess whether the accreditation body meets the criteria for recognition; and

"(B) shall promptly revoke the recognition of any accreditation body found not to be in compliance with the requirements of this section, specifying, as appropriate, any terms and conditions necessary for laboratories accredited by such body to continue to perform testing as described in this section.

"(b) TESTING PROCEDURES.—

"(1) IN GENERAL.—Not later than 30 months after the date of enactment of the FDA Food Safety Modernization Act, food testing shall be conducted by Federal laboratories or non-Federal laboratories that have been accredited for the appropriate sampling or analytical testing methodology or methodologies by a recognized accreditation body on the registry established by the Secretary under subsection (a)(1)(B) whenever such testing is conducted—

"(A) by or on behalf of an owner or consignee—

"(i) in response to a specific testing requirement under this Act or implementing regulations, when applied to address an identified or suspected food safety problem; and

"(ii) as required by the Secretary, as the Secretary deems appropriate, to address an identified or suspected food safety problem; or

"(B) on behalf of an owner or consignee—

"(i) in support of admission of an article of food under section 801(a); and

"(ii) under an Import Alert that requires successful consecutive tests.

"(2) RESULTS OF TESTING.—The results of any such testing shall be sent directly to the Food and Drug Administration, except the Secretary may by regulation exempt test results from such submission requirement if the Secretary determines that such results do not contribute to the protection of public health. Test results required to be submitted may be submitted to the Food and Drug Administration through electronic means.

"(3) EXCEPTION.—The Secretary may waive requirements under this subsection if—

"(A) a new methodology or methodologies have been developed and validated but a laboratory has not yet been accredited to perform such methodology or methodologies; and

"(B) the use of such methodology or methodologies are necessary to prevent, control, or mitigate a food emergency or foodborne illness outbreak.

"(c) REVIEW BY SECRETARY.—If food sampling and testing performed by a laboratory run and operated by a State or locality that is accredited by a recognized accreditation body on the registry established by the Secretary under subsection (a) result in a State recalling a food, the Secretary shall review the sampling and testing results for the purpose of determining the need for a national recall or other compliance and enforcement activities.

"(d) NO LIMIT ON SECRETARIAL AUTHORITY.—Nothing in this section shall be construed to limit the ability of the Secretary to review and act upon information from food testing, including determining the sufficiency of such information and testing.".

(b) FOOD EMERGENCY RESPONSE NETWORK.—The Secretary, in coordination with the Secretary of Agriculture, the Secretary of Homeland Security, and State, local, and tribal governments shall, not later than 180 days after the date of enactment of this Act, and biennially thereafter, submit to the relevant committees of Congress, and make publicly available on the Internet Web site of the Department of Health and Human Services, a report on the progress in implementing a national food emergency response laboratory network that—

(1) provides ongoing surveillance, rapid detection, and surge capacity for large-scale food-related emergencies, including intentional adulteration of the food supply;

(2) coordinates the food laboratory capacities of State, local, and tribal food laboratories, including the adoption of novel surveillance and identification technologies and the sharing of data among Federal agencies and State laboratories to develop national situational awareness;

(3) provides accessible, timely, accurate, and consistent food laboratory services throughout the United States;

(4) develops and implements a methods repository for use by Federal, State, and local officials;

(5) responds to food-related emergencies; and

(6) is integrated with relevant laboratory networks administered by other Federal agencies.

SEC. 6203. INTEGRATED CONSORTIUM OF LABORATORY NETWORKS.

(a) IN GENERAL.—The Secretary of Homeland Security, in coordination with the Secretary of Health and Human Services, the Secretary of Agriculture, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall maintain an agreement through which relevant laboratory network members, as determined by the Secretary of Homeland Security, shall—

(1) agree on common laboratory methods in order to reduce the time required to detect and respond to foodborne illness outbreaks and facilitate the sharing of knowledge and information relating to animal health, agriculture, and human health;

(2) identify means by which laboratory network members could work cooperatively—

(A) to optimize national laboratory preparedness; and

(B) to provide surge capacity during emergencies; and

(3) engage in ongoing dialogue and build relationships that will support a more effective and integrated response during emergencies.

(b) REPORTING REQUIREMENT.—The Secretary of Homeland Security shall, on a biennial basis, submit to the relevant committees of Congress, and make publicly available on the Internet Web site of the Department of Homeland Security, a report on the progress of the integrated consortium of laboratory networks, as established under subsection (a), in carrying out this section.

SEC. 6204. ENHANCING TRACKING AND TRACING OF FOOD AND RECORDKEEPING.

(a) PILOT PROJECTS.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this section as the "Secretary"), taking into account recommendations from the Secretary of Agriculture and representatives of State departments of health and agriculture, shall establish pilot projects in coordination with the food industry to explore and evaluate methods to rapidly and effectively identify recipients of food to prevent or mitigate a foodborne illness outbreak and to address credible threats of serious adverse health consequences or death to humans or animals as a result of such food being adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) or misbranded under section 403(w) of such Act (21 U.S.C. 343(w)).

(2) CONTENT.—The Secretary shall conduct 1 or more pilot projects under paragraph (1) in coordination with the processed food sector and 1 or more such pilot projects in coordination with processors or distributors of fruits and vegetables that are raw agricultural commodities. The Secretary shall ensure that the pilot projects under paragraph (1) reflect the diversity of the food supply and include at least 3 different types of foods that have been the subject of significant outbreaks during the 5-year period preceding the date of enactment of this Act, and are selected in order to—

(A) develop and demonstrate methods for rapid and effective tracking and tracing of foods in a manner that is practicable for facilities of varying sizes, including small businesses;

(B) develop and demonstrate appropriate technologies, including technologies existing on the date of enactment of this Act, that enhance the tracking and tracing of food; and

(C) inform the promulgation of regulations under subsection (d).

(3) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall report to Congress on the findings of the pilot projects under this subsection together with recommendations for improving the tracking and tracing of food.

(b) ADDITIONAL DATA GATHERING.—

(1) IN GENERAL.—The Secretary, in coordination with the Secretary of Agriculture and multiple representatives of State departments of health and agriculture, shall assess—

(A) the costs and benefits associated with the adoption and use of several product tracing technologies, including technologies used in the pilot projects under subsection (a);

(B) the feasibility of such technologies for different sectors of the food industry, including small businesses; and

(C) whether such technologies are compatible with the requirements of this subsection.

(2) REQUIREMENTS.—To the extent practicable, in carrying out paragraph (1), the Secretary shall—

(A) evaluate domestic and international product tracing practices in commercial use;

(B) consider international efforts, including an assessment of whether product tracing requirements developed under this section are compatible with global tracing systems, as appropriate; and

(C) consult with a diverse and broad range of experts and stakeholders, including representatives of the food industry, agricultural producers, and nongovernmental organizations that represent the interests of consumers.

(c) PRODUCT TRACING SYSTEM.—The Secretary, in consultation with the Secretary of Agriculture, shall, as appropriate, establish within the Food and Drug Administration a product tracing system to receive information that improves the capacity of the Secretary to effectively and rapidly track and trace food that is in the United States or offered for import into the United States. Prior to the establishment of such product tracing system, the Secretary shall examine the results of applicable pilot projects and shall ensure that the activities of such system are adequately supported by the results of such pilot projects.

(d) ADDITIONAL RECORDKEEPING REQUIREMENTS FOR HIGH-RISK FOODS.—

(1) IN GENERAL.—In order to rapidly and effectively identify recipients of a food to prevent or mitigate a foodborne illness outbreak and to address credible threats of serious adverse health consequences or death to humans or animals as a result of such food being adulterated under section 402 of the Federal

Food, Drug, and Cosmetic Act or misbranded under section 403(w) of such Act, not later than 2 years after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking to establish recordkeeping requirements, in addition to the requirements under section 414 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350c) and subpart J of part 1 of title 21, Code of Federal Regulations (or any successor regulations), for facilities that manufacture, process, pack, or hold foods that the Secretary designates under paragraph (2) as high-risk foods. The Secretary shall set an appropriate effective date of such additional requirements for foods designated as high risk that takes into account the length of time necessary to comply with such requirements. Such requirements shall—

(A) relate only to information that is reasonably available and appropriate;

(B) be science-based;

(C) not prescribe specific technologies for the maintenance of records;

(D) ensure that the public health benefits of imposing additional recordkeeping requirements outweigh the cost of compliance with such requirements;

(E) be scale-appropriate and practicable for facilities of varying sizes and capabilities with respect to costs and recordkeeping burdens, and not require the creation and maintenance of duplicate records where the information is contained in other company records kept in the normal course of business;

(F) minimize the number of different recordkeeping requirements for facilities that handle more than 1 type of food;

(G) to the extent practicable, not require a facility to change business systems to comply with such requirements;

(H) allow any person subject to this subsection to maintain records required under this subsection at a central or reasonably accessible location provided that such records can be made available to the Secretary not later than 24 hours after the Secretary requests such records;

(I) include a process by which the Secretary may issue a waiver of the requirements under this subsection if the Secretary determines that such requirements would result in an economic hardship for an individual facility or a type of facility;

(J) be commensurate with the known safety risks of the designated food;

(K) take into account international trade obligations;

(L) not require—

(i) a full pedigree, or a record of the complete previous distribution history of the food from the point of origin of such food;

(ii) records of recipients of a food beyond the immediate subsequent recipient of such food; or

(iii) product tracking to the case level by persons subject to such requirements; and

(M) include a process by which the Secretary may remove a high-risk food designation developed under paragraph (2) for a food or type of food.

(2) DESIGNATION OF HIGH-RISK FOODS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and thereafter as the Secretary determines necessary, the Secretary shall designate high-risk foods for which the additional recordkeeping requirements described in paragraph (1) are appropriate and necessary to protect the public health. Each such designation shall be based on—

(i) the known safety risks of a particular food, including the history and severity of foodborne illness outbreaks attributed to such food, taking into consideration foodborne illness data collected by the Centers for Disease Control and Prevention;

(ii) the likelihood that a particular food has a high potential risk for microbiological or chemical contamination or would support the growth of pathogenic microorganisms due to the nature of the food or the processes used to produce such food;

(iii) the point in the manufacturing process of the food where contamination is most likely to occur;

(iv) the likelihood of contamination and steps taken during the manufacturing process to reduce the possibility of contamination;

(v) the likelihood that consuming a particular food will result in a foodborne illness due to contamination of the food; and

(vi) the likely or known severity, including health and economic impacts, of a foodborne illness attributed to a particular food.

(B) LIST OF HIGH-RISK FOODS.—At the time the Secretary promulgates the final rules under paragraph (1), the Secretary shall publish the list of the foods designated under subparagraph (A) as high-risk foods on the Internet website of the Food and Drug Administration. The Secretary may update the list to designate new high-risk foods and to remove foods that are no longer deemed to be high-risk foods, provided that each such update to the list is consistent with the requirements of this subsection and notice of such update is published in the Federal Register.

(3) PROTECTION OF SENSITIVE INFORMATION.—In promulgating regulations under this subsection, the Secretary shall take appropriate measures to ensure that there are effective procedures to prevent the unauthorized disclosure of any trade secret or confidential information that is obtained by the Secretary pursuant to this section, including periodic risk assessment and planning to prevent unauthorized release and controls to—

(A) prevent unauthorized reproduction of trade secret or confidential information;

(B) prevent unauthorized access to trade secret or confidential information; and

(C) maintain records with respect to access by any person to trade secret or confidential information maintained by the agency.

(4) PUBLIC INPUT.—During the comment period in the notice of proposed rulemaking under paragraph (1), the Secretary shall conduct not less than 3 public meetings in diverse geographical areas of the United States to provide persons in different regions an opportunity to comment.

(5) RETENTION OF RECORDS.—Except as otherwise provided in this subsection, the Secretary may require that a facility retain records under this subsection for not more than 2 years, taking into consideration the risk of spoilage, loss of value, or loss of palatability of the applicable food when determining the appropriate timeframes.

(6) LIMITATIONS.—

(A) FARM-TO-SCHOOL PROGRAMS.—In establishing requirements under this subsection, the Secretary shall, in consultation with the Secretary of Agriculture, consider the impact of requirements on farm-to-school or farm-to-institution programs of the Department of Agriculture and other farm-to-school and farm-to-institution programs outside such agency, and shall modify the requirements under this subsection, as appropriate, with respect to such programs so that the requirements do not place undue burdens on farm-to-school or farm-to-institution programs.

(B) IDENTITY-PRESERVED LABELS WITH RESPECT TO FARM SALES OF FOOD THAT IS PRODUCED AND PACKAGED ON A FARM.—The requirements under this subsection shall not apply to a food that is produced and packaged on a farm if—

(i) the packaging of the food maintains the integrity of the product and prevents subsequent contamination or alteration of the product; and

(ii) the labeling of the food includes the name, complete address (street address, town, State, country, and zip or other postal code), and business phone number of the farm, unless the Secretary waives the requirement to include a business phone number of the farm, as appropriate, in order to accommodate a religious belief of the individual in charge of such farm.

(C) FISHING VESSELS.—The requirements under this subsection with respect to a food that is produced through the use of a fishing vessel (as defined in section 3(18) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(18))) shall be limited to the requirements under subparagraph (F) until such time as the food is sold by the owner, operator, or agent in charge of such fishing vessel.

(D) COMMINGLED RAW AGRICULTURAL COMMODITIES.—

(i) LIMITATION ON EXTENT OF TRACING.—Recordkeeping requirements under this subsection with regard to any commingled raw agricultural commodity shall be limited to the requirements under subparagraph (F).

(ii) DEFINITIONS.—For the purposes of this subparagraph—

(I) the term "commingled raw agricultural commodity" means any commodity that is combined or mixed after harvesting, but before processing;

(II) the term "commingled raw agricultural commodity" shall not include types of fruits and vegetables that are raw agricultural commodities for which the Secretary has determined that standards promulgated under section 419 of the Federal Food, Drug, and Cosmetic Act (as added by section 6105) would minimize the risk of serious adverse health consequences or death; and

(III) the term "processing" means operations that alter the general state of the commodity, such as canning, cooking, freezing, dehydration, milling, grinding, pasteurization, or homogenization.

(E) EXEMPTION OF OTHER FOODS.—The Secretary may, by notice in the Federal Register, modify the requirements under this subsection with respect to, or exempt a food or a type of facility from, the requirements of this subsection (other than the requirements under subparagraph (F), if applicable) if the Secretary determines that product tracing requirements for such food (such as bulk or commingled ingredients that are intended to be processed to destroy pathogens) or type of facility is not necessary to protect the public health.

(F) RECORDKEEPING REGARDING PREVIOUS SOURCES AND SUBSEQUENT RECIPIENTS.—In the case of a person or food to which a limitation or exemption under subparagraph (C), (D), or (E) applies, if such person, or a person who manufactures, processes, packs, or holds such food, is required to register with the Secretary under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d) with respect to the manufacturing, processing, packing, or holding of the applicable food, the Secretary shall require such person to maintain records that identify the immediate previous source of such food and the immediate subsequent recipient of such food.

(G) GROCERY STORES.—With respect to a sale of a food described in subparagraph (H) to a grocery store, the Secretary shall not require such grocery store to maintain records under this subsection other than records documenting the farm that was the source of such food. The Secretary shall not require that such records be kept for more than 180 days.

(H) FARM SALES TO CONSUMERS.—The Secretary shall not require a farm to maintain any distribution records under this subsection with respect to a sale of a food described in subparagraph (I) (including a sale of a food that is produced and packaged on such farm), if such sale is made by the farm directly to a consumer.

(I) SALE OF A FOOD.—A sale of a food described in this subparagraph is a sale of a food in which—

(i) the food is produced on a farm; and

(ii) the sale is made by the owner, operator, or agent in charge of such farm directly to a consumer or grocery store.

(7) NO IMPACT ON NON-HIGH-RISK FOODS.—The recordkeeping requirements established under paragraph (1) shall have no effect on foods that are not designated by the Secretary under paragraph (2) as high-risk foods. Foods described in the preceding sentence shall be subject solely to the recordkeeping requirements under section 414 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350c) and subpart J of part 1 of title 21, Code of Federal Regulations (or any successor regulations).

(e) EVALUATION AND RECOMMENDATIONS.—

(1) REPORT.—Not later than 1 year after the effective date of the final rule promulgated under subsection (d)(1), the Comptroller General of the United States shall submit to Congress a report, taking into consideration the costs of compliance and other regulatory burdens on small businesses and Federal, State, and local food safety practices and requirements, that evaluates the public health benefits and risks, if any, of limiting—

(A) the product tracing requirements under subsection (d) to foods identified under paragraph (2) of such subsection, including whether such requirements provide adequate assurance of traceability in the event of intentional adulteration, including by acts of terrorism; and

(B) the participation of restaurants in the recordkeeping requirements.

(2) DETERMINATION AND RECOMMENDATIONS.—In conducting the evaluation and report under paragraph (1), if the Comptroller General of the United States determines that the limitations described in such paragraph do not adequately protect the public health, the Comptroller General shall submit to Congress recommendations, if appropriate, regarding recordkeeping requirements for restaurants and additional foods, in order to protect the public health.

(f) FARMS.—

(1) REQUEST FOR INFORMATION.—Notwithstanding subsection (d), during an active investigation of a foodborne illness outbreak, or if the Secretary determines it is necessary to protect the public health and prevent or mitigate a foodborne illness outbreak, the Secretary, in consultation and coordination with State and local agencies responsible for food safety, as appropriate, may request that the owner, operator, or agent of a farm identify potential immediate recipients, other than consumers, of an article of the food that is the subject of such investigation if the Secretary reasonably believes such article of food—

(A) is adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act;

(B) presents a threat of serious adverse health consequences or death to humans or animals; and

(C) was adulterated as described in subparagraph (A) on a particular farm (as defined in section 1.227 of chapter

21, Code of Federal Regulations (or any successor regulation)).

(2) MANNER OF REQUEST.—In making a request under paragraph (1), the Secretary, in consultation and coordination with State and local agencies responsible for food safety, as appropriate, shall issue a written notice to the owner, operator, or agent of the farm to which the article of food has been traced. The individual providing such notice shall present to such owner, operator, or agent appropriate credentials and shall deliver such notice at reasonable times and within reasonable limits and in a reasonable manner.

(3) DELIVERY OF INFORMATION REQUESTED.—The owner, operator, or agent of a farm shall deliver the information requested under paragraph (1) in a prompt and reasonable manner. Such information may consist of records kept in the normal course of business, and may be in electronic or nonelectronic format.

(4) LIMITATION.—A request made under paragraph (1) shall not include a request for information relating to the finances, pricing of commodities produced, personnel, research, sales (other than information relating to shipping), or other disclosures that may reveal trade secrets or confidential information from the farm to which the article of food has been traced, other than information necessary to identify potential immediate recipients of such food. Section 301(j) of the Federal Food, Drug, and Cosmetic Act and the Freedom of Information Act shall apply with respect to any confidential commercial information that is disclosed to the Food and Drug Administration in the course of responding to a request under paragraph (1).

(5) RECORDS.—Except with respect to identifying potential immediate recipients in response to a request under this subsection, nothing in this subsection shall require the establishment or maintenance by farms of new records.

(g) NO LIMITATION ON COMMINGLING OF FOOD.—Nothing in this section shall be construed to authorize the Secretary to impose any limitation on the commingling of food.

(h) SMALL ENTITY COMPLIANCE GUIDE.—Not later than 180 days after promulgation of a final rule under subsection (d), the Secretary shall issue a small entity compliance guide setting forth in plain language the requirements of the regulations under such subsection in order to assist small entities, including farms and small businesses, in complying with the recordkeeping requirements under such subsection.

(i) FLEXIBILITY FOR SMALL BUSINESSES.—Notwithstanding any other provision of law, the regulations promulgated under subsection (d) shall apply—

(1) to small businesses (as defined by the Secretary in section 6103, not later than 90 days after the date of enactment of this Act) beginning on the date that is 1 year after the effective date of the final regulations promulgated under subsection (d); and

(2) to very small businesses (as defined by the Secretary in section 6103, not later than 90 days after the date of enactment of this Act) beginning on the date that is 2 years after

the effective date of the final regulations promulgated under subsection (d).

(j) ENFORCEMENT.—

(1) PROHIBITED ACTS.—Section 301(e) (21 U.S.C. 331(e)) is amended by inserting "; or the violation of any recordkeeping requirement under section 6204 of the FDA Food Safety Modernization Act (except when such violation is committed by a farm)" before the period at the end.

(2) IMPORTS.—Section 801(a) (21 U.S.C. 381(a)) is amended by inserting "or (4) the recordkeeping requirements under section 6204 of the FDA Food Safety Modernization Act (other than the requirements under subsection (f) of such section) have not been complied with regarding such article," in the third sentence before "then such article shall be refused admission".

SEC. 6205. SURVEILLANCE.

(a) DEFINITION OF FOODBORNE ILLNESS OUTBREAK.—In this Act, the term "foodborne illness outbreak" means the occurrence of 2 or more cases of a similar illness resulting from the ingestion of a certain food.

(b) FOODBORNE ILLNESS SURVEILLANCE SYSTEMS.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall enhance foodborne illness surveillance systems to improve the collection, analysis, reporting, and usefulness of data on foodborne illnesses by—

(A) coordinating Federal, State, and local foodborne illness surveillance systems, including complaint systems, and increasing participation in national networks of public health and food regulatory agencies and laboratories;

(B) facilitating sharing of surveillance information on a more timely basis among governmental agencies, including the Food and Drug Administration, the Department of Agriculture, the Department of Homeland Security, and State and local agencies, and with the public;

(C) developing improved epidemiological tools for obtaining quality exposure data and microbiological methods for classifying cases;

(D) augmenting such systems to improve attribution of a foodborne illness outbreak to a specific food;

(E) expanding capacity of such systems, including working toward automatic electronic searches, for implementation of identification practices, including fingerprinting strategies, for foodborne infectious agents, in order to identify new or rarely documented causes of foodborne illness and submit standardized information to a centralized database;

(F) allowing timely public access to aggregated, de-identified surveillance data;

(G) at least annually, publishing current reports on findings from such systems;

(H) establishing a flexible mechanism for rapidly initiating scientific research by academic institutions;

(I) integrating foodborne illness surveillance systems and data with other biosurveillance and public health situ-

ational awareness capabilities at the Federal, State, and local levels, including by sharing foodborne illness surveillance data with the National Biosurveillance Integration Center; and

(J) other activities as determined appropriate by the Secretary.

(2) WORKING GROUP.—The Secretary shall support and maintain a diverse working group of experts and stakeholders from Federal, State, and local food safety and health agencies, the food and food testing industries, consumer organizations, and academia. Such working group shall provide the Secretary, through at least annual meetings of the working group and an annual public report, advice and recommendations on an ongoing and regular basis regarding the improvement of foodborne illness surveillance and implementation of this section, including advice and recommendations on—

(A) the priority needs of regulatory agencies, the food industry, and consumers for information and analysis on foodborne illness and its causes;

(B) opportunities to improve the effectiveness of initiatives at the Federal, State, and local levels, including coordination and integration of activities among Federal agencies, and among the Federal, State, and local levels of government;

(C) improvement in the timeliness and depth of access by regulatory and health agencies, the food industry, academic researchers, and consumers to foodborne illness aggregated, de-identified surveillance data collected by government agencies at all levels, including data compiled by the Centers for Disease Control and Prevention;

(D) key barriers at Federal, State, and local levels to improving foodborne illness surveillance and the utility of such surveillance for preventing foodborne illness;

(E) the capabilities needed for establishing automatic electronic searches of surveillance data; and

(F) specific actions to reduce barriers to improvement, implement the working group's recommendations, and achieve the purposes of this section, with measurable objectives and timelines, and identification of resource and staffing needs.

(3) AUTHORIZATION OF APPROPRIATIONS.—To carry out the activities described in paragraph (1), there is authorized to be appropriated $24,000,000 for each fiscal years 2011 through 2015.

(c) IMPROVING FOOD SAFETY AND DEFENSE CAPACITY AT THE STATE AND LOCAL LEVEL.—

(1) IN GENERAL.—The Secretary shall develop and implement strategies to leverage and enhance the food safety and defense capacities of State and local agencies in order to achieve the following goals:

(A) Improve foodborne illness outbreak response and containment.

(B) Accelerate foodborne illness surveillance and outbreak investigation, including rapid shipment of clinical isolates from clinical laboratories to appropriate State lab-

oratories, and conducting more standardized illness outbreak interviews.

(C) Strengthen the capacity of State and local agencies to carry out inspections and enforce safety standards.

(D) Improve the effectiveness of Federal, State, and local partnerships to coordinate food safety and defense resources and reduce the incidence of foodborne illness.

(E) Share information on a timely basis among public health and food regulatory agencies, with the food industry, with health care providers, and with the public.

(F) Strengthen the capacity of State and local agencies to achieve the goals described in section 6108.

(2) REVIEW.—In developing of the strategies required by paragraph (1), the Secretary shall, not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, complete a review of State and local capacities, and needs for enhancement, which may include a survey with respect to—

(A) staffing levels and expertise available to perform food safety and defense functions;

(B) laboratory capacity to support surveillance, outbreak response, inspection, and enforcement activities;

(C) information systems to support data management and sharing of food safety and defense information among State and local agencies and with counterparts at the Federal level; and

(D) other State and local activities and needs as determined appropriate by the Secretary.

(d) FOOD SAFETY CAPACITY BUILDING GRANTS.—Section 317R(b) of the Public Health Service Act (42 U.S.C. 247b–20(b)) is amended—

(1) by striking "2002" and inserting "2010"; and

(2) by striking "2003 through 2006" and inserting "2011 through 2015".

SEC. 6206. MANDATORY RECALL AUTHORITY.

(a) IN GENERAL.—Chapter IV (21 U.S.C. 341 et seq.), as amended by section 6202, is amended by adding at the end the following:

"SEC. 423. MANDATORY RECALL AUTHORITY.

"(a) VOLUNTARY PROCEDURES.—If the Secretary determines, based on information gathered through the reportable food registry under section 417 or through any other means, that there is a reasonable probability that an article of food (other than infant formula) is adulterated under section 402 or misbranded under section 403(w) and the use of or exposure to such article will cause serious adverse health consequences or death to humans or animals, the Secretary shall provide the responsible party (as defined in section 417) with an opportunity to cease distribution and recall such article.

"(b) PREHEARING ORDER TO CEASE DISTRIBUTION AND GIVE NOTICE.—

"(1) IN GENERAL.—If the responsible party refuses to or does not voluntarily cease distribution or recall such article within the time and in the manner prescribed by the Secretary (if so prescribed), the Secretary may, by order require, as the Secretary deems necessary, such person to—

"(A) immediately cease distribution of such article; and

"(B) as applicable, immediately notify all persons—

"(i) manufacturing, processing, packing, transporting, distributing, receiving, holding, or importing and selling such article; and

"(ii) to which such article has been distributed, transported, or sold, to immediately cease distribution of such article.

"(2) REQUIRED ADDITIONAL INFORMATION.—

"(A) IN GENERAL.—If an article of food covered by a recall order issued under paragraph (1)(B) has been distributed to a warehouse-based third-party logistics provider without providing such provider sufficient information to know or reasonably determine the precise identity of the article of food covered by a recall order that is in its possession, the notice provided by the responsible party subject to the order issued under paragraph (1)(B) shall include such information as is necessary for the warehouse-based third-party logistics provider to identify the food.

"(B) RULES OF CONSTRUCTION.—Nothing in this paragraph shall be construed—

"(i) to exempt a warehouse-based third-party logistics provider from the requirements of this Act, including the requirements in this section and section 414; or

"(ii) to exempt a warehouse-based third party logistics provider from being the subject of a mandatory recall order.

"(3) DETERMINATION TO LIMIT AREAS AFFECTED.—If the Secretary requires a responsible party to cease distribution under paragraph (1)(A) of an article of food identified in subsection (a), the Secretary may limit the size of the geographic area and the markets affected by such cessation if such limitation would not compromise the public health.

"(c) HEARING ON ORDER.—The Secretary shall provide the responsible party subject to an order under subsection (b) with an opportunity for an informal hearing, to be held as soon as possible, but not later than 2 days after the issuance of the order, on the actions required by the order and on why the article that is the subject of the order should not be recalled.

"(d) POST-HEARING RECALL ORDER AND MODIFICATION OF ORDER.—

"(1) AMENDMENT OF ORDER.—If, after providing opportunity for an informal hearing under subsection (c), the Secretary determines that removal of the article from commerce is necessary, the Secretary shall, as appropriate—

"(A) amend the order to require recall of such article or other appropriate action;

"(B) specify a timetable in which the recall shall occur;

"(C) require periodic reports to the Secretary describing the progress of the recall; and

"(D) provide notice to consumers to whom such article was, or may have been, distributed.

"(2) VACATING OF ORDER.—If, after such hearing, the Secretary determines that adequate grounds do not exist to con-

tinue the actions required by the order, or that such actions should be modified, the Secretary shall vacate the order or modify the order.

"(e) RULE REGARDING ALCOHOLIC BEVERAGES.—The Secretary shall not initiate a mandatory recall or take any other action under this section with respect to any alcohol beverage until the Secretary has provided the Alcohol and Tobacco Tax and Trade Bureau with a reasonable opportunity to cease distribution and recall such article under the Alcohol and Tobacco Tax and Trade Bureau authority.

"(f) COOPERATION AND CONSULTATION.—The Secretary shall work with State and local public health officials in carrying out this section, as appropriate.

"(g) PUBLIC NOTIFICATION.—In conducting a recall under this section, the Secretary shall—

"(1) ensure that a press release is published regarding the recall, as well as alerts and public notices, as appropriate, in order to provide notification—

"(A) of the recall to consumers and retailers to whom such article was, or may have been, distributed; and

"(B) that includes, at a minimum—

"(i) the name of the article of food subject to the recall;

"(ii) a description of the risk associated with such article; and

"(iii) to the extent practicable, information for consumers about similar articles of food that are not affected by the recall;

"(2) consult the policies of the Department of Agriculture regarding providing to the public a list of retail consignees receiving products involved in a Class I recall and shall consider providing such a list to the public, as determined appropriate by the Secretary; and

"(3) if available, publish on the Internet Web site of the Food and Drug Administration an image of the article that is the subject of the press release described in paragraph (1).

"(h) NO DELEGATION.—The authority conferred by this section to order a recall or vacate a recall order shall not be delegated to any officer or employee other than the Commissioner.

"(i) EFFECT.—Nothing in this section shall affect the authority of the Secretary to request or participate in a voluntary recall, or to issue an order to cease distribution or to recall under any other provision of this Act or under the Public Health Service Act.

"(j) COORDINATED COMMUNICATION.—

"(1) IN GENERAL.—To assist in carrying out the requirements of this subsection, the Secretary shall establish an incident command operation or a similar operation within the Department of Health and Human Services that will operate not later than 24 hours after the initiation of a mandatory recall or the recall of an article of food for which the use of, or exposure to, such article will cause serious adverse health consequences or death to humans or animals.

"(2) REQUIREMENTS.—To reduce the potential for miscommunication during recalls or regarding investigations of a foodborne illness outbreak associated with a food that is sub-

ject to a recall, each incident command operation or similar operation under paragraph (1) shall use regular staff and resources of the Department of Health and Human Services to—

"(A) ensure timely and coordinated communication within the Department, including enhanced communication and coordination between different agencies and organizations within the Department;

"(B) ensure timely and coordinated communication from the Department, including public statements, throughout the duration of the investigation and related foodborne illness outbreak;

"(C) identify a single point of contact within the Department for public inquiries regarding any actions by the Secretary related to a recall;

"(D) coordinate with Federal, State, local, and tribal authorities, as appropriate, that have responsibilities related to the recall of a food or a foodborne illness outbreak associated with a food that is subject to the recall, including notification of the Secretary of Agriculture and the Secretary of Education in the event such recalled food is a commodity intended for use in a child nutrition program (as identified in section 25(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769f(b)); and

"(E) conclude operations at such time as the Secretary determines appropriate.

"(3) MULTIPLE RECALLS.—The Secretary may establish multiple or concurrent incident command operations or similar operations in the event of multiple recalls or foodborne illness outbreaks necessitating such action by the Department of Health and Human Services.".

(b) SEARCH ENGINE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall modify the Internet Web site of the Food and Drug Administration to include a search engine that—

(1) is consumer-friendly, as determined by the Secretary; and

(2) provides a means by which an individual may locate relevant information regarding each article of food subject to a recall under section 423 of the Federal Food, Drug, and Cosmetic Act and the status of such recall (such as whether a recall is ongoing or has been completed).

(c) CIVIL PENALTY.—Section 303(f)(2)(A) (21 U.S.C. 333(f)(2)(A)) is amended by inserting "or any person who does not comply with a recall order under section 423" after "section 402(a)(2)(B)".

(d) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331 et seq.), as amended by section 6106, is amended by adding at the end the following:

"(xx) The refusal or failure to follow an order under section 423.".

(e) GAO REVIEW.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report that—

(A) identifies State and local agencies with the authority to require the mandatory recall of food, and evaluates use of such authority with regard to frequency, effectiveness, and appropriateness, including consideration of any new or

existing mechanisms available to compensate persons for general and specific recall-related costs when a recall is subsequently determined by the relevant authority to have been an error;

(B) identifies Federal agencies, other than the Department of Health and Human Services, with mandatory recall authority and examines use of that authority with regard to frequency, effectiveness, and appropriateness, including any new or existing mechanisms available to compensate persons for general and specific recall-related costs when a recall is subsequently determined by the relevant agency to have been an error;

(C) considers models for farmer restitution implemented in other nations in cases of erroneous recalls; and

(D) makes recommendations to the Secretary regarding use of the authority under section 423 of the Federal Food, Drug, and Cosmetic Act (as added by this section) to protect the public health while seeking to minimize unnecessary economic costs.

(2) EFFECT OF REVIEW.—If the Comptroller General of the United States finds, after the review conducted under paragraph (1), that the mechanisms described in such paragraph do not exist or are inadequate, then, not later than 90 days after the conclusion of such review, the Secretary of Agriculture shall conduct a study of the feasibility of implementing a farmer indemnification program to provide restitution to agricultural producers for losses sustained as a result of a mandatory recall of an agricultural commodity by a Federal or State regulatory agency that is subsequently determined to be in error. The Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study, including any recommendations.

(f) ANNUAL REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act and annually thereafter, the Secretary of Health and Human Services (referred to in this subsection as the "Secretary") shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives on the use of recall authority under section 423 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)) and any public health advisories issued by the Secretary that advise against the consumption of an article of food on the ground that the article of food is adulterated and poses an imminent danger to health.

(2) CONTENT.—The report under paragraph (1) shall include, with respect to the report year—

(A) the identity of each article of food that was the subject of a public health advisory described in paragraph (1), an opportunity to cease distribution and recall under subsection (a) of section 423 of the Federal Food, Drug, and Cosmetic Act, or a mandatory recall order under subsection (b) of such section;

(B) the number of responsible parties, as defined in section 417 of the Federal Food, Drug, and Cosmetic Act, formally given the opportunity to cease distribution of an article of food and recall such article, as described in section 423(a) of such Act;

(C) the number of responsible parties described in subparagraph (B) who did not cease distribution of or recall an article of food after given the opportunity to cease distribution or recall under section 423(a) of the Federal Food, Drug, and Cosmetic Act;

(D) the number of recall orders issued under section 423(b) of the Federal Food, Drug, and Cosmetic Act; and

(E) a description of any instances in which there was no testing that confirmed adulteration of an article of food that was the subject of a recall under section 423(b) of the Federal Food, Drug, and Cosmetic Act or a public health advisory described in paragraph (1).

SEC. 6207. ADMINISTRATIVE DETENTION OF FOOD.

(a) IN GENERAL.—Section 304(h)(1)(A) (21 U.S.C. 334(h)(1)(A)) is amended by—

(1) striking "credible evidence or information indicating" and inserting "reason to believe"; and

(2) striking "presents a threat of serious adverse health consequences or death to humans or animals" and inserting "is adulterated or misbranded".

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue an interim final rule amending subpart K of part 1 of title 21, Code of Federal Regulations, to implement the amendment made by this section.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. 6208. DECONTAMINATION AND DISPOSAL STANDARDS AND PLANS.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency (referred to in this section as the "Administrator"), in coordination with the Secretary of Health and Human Services, Secretary of Homeland Security, and Secretary of Agriculture, shall provide support for, and technical assistance to, State, local, and tribal governments in preparing for, assessing, decontaminating, and recovering from an agriculture or food emergency.

(b) DEVELOPMENT OF STANDARDS.—In carrying out subsection (a), the Administrator, in coordination with the Secretary of Health and Human Services, Secretary of Homeland Security, Secretary of Agriculture, and State, local, and tribal governments, shall develop and disseminate specific standards and protocols to undertake clean-up, clearance, and recovery activities following the decontamination and disposal of specific threat agents and foreign animal diseases.

(c) DEVELOPMENT OF MODEL PLANS.—In carrying out subsection (a), the Administrator, the Secretary of Health and Human Services, and the Secretary of Agriculture shall jointly develop and disseminate model plans for—

(1) the decontamination of individuals, equipment, and facilities following an intentional contamination of agriculture or food; and

(2) the disposal of large quantities of animals, plants, or food products that have been infected or contaminated by specific threat agents and foreign animal diseases.

(d) EXERCISES.—In carrying out subsection (a), the Administrator, in coordination with the entities described under subsection (b), shall conduct exercises at least annually to evaluate and identify weaknesses in the decontamination and disposal model plans described in subsection (c). Such exercises shall be carried out, to the maximum extent practicable, as part of the national exercise program under section 648(b)(1) of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 748(b)(1)).

(e) MODIFICATIONS.—Based on the exercises described in subsection (d), the Administrator, in coordination with the entities described in subsection (b), shall review and modify as necessary the plans described in subsection (c) not less frequently than biennially.

(f) PRIORITIZATION.—The Administrator, in coordination with the entities described in subsection (b), shall develop standards and plans under subsections (b) and (c) in an identified order of priority that takes into account—

(1) highest risk biological, chemical, and radiological threat agents;

(2) agents that could cause the greatest economic devastation to the agriculture and food system; and

(3) agents that are most difficult to clean or remediate.

SEC. 6209. IMPROVING THE TRAINING OF STATE, LOCAL, TERRITORIAL, AND TRIBAL FOOD SAFETY OFFICIALS.

(a) IMPROVING TRAINING.—Chapter X (21 U.S.C. 391 et seq.) is amended by adding at the end the following:

"SEC. 1012. IMPROVING THE TRAINING OF STATE, LOCAL, TERRITORIAL, AND TRIBAL FOOD SAFETY OFFICIALS.

"(a) TRAINING.—The Secretary shall set standards and administer training and education programs for the employees of State, local, territorial, and tribal food safety officials relating to the regulatory responsibilities and policies established by this Act, including programs for—

"(1) scientific training;

"(2) training to improve the skill of officers and employees authorized to conduct inspections under sections 702 and 704;

"(3) training to achieve advanced product or process specialization in such inspections;

"(4) training that addresses best practices;

"(5) training in administrative process and procedure and integrity issues;

"(6) training in appropriate sampling and laboratory analysis methodology; and

"(7) training in building enforcement actions following inspections, examinations, testing, and investigations.

"(b) PARTNERSHIPS WITH STATE AND LOCAL OFFICIALS.—

"(1) IN GENERAL.—The Secretary, pursuant to a contract or memorandum of understanding between the Secretary and the head of a State, local, territorial, or tribal department or agen-

cy, is authorized and encouraged to conduct examinations, testing, and investigations for the purposes of determining compliance with the food safety provisions of this Act through the officers and employees of such State, local, territorial, or tribal department or agency.

"(2) CONTENT.—A contract or memorandum described under paragraph (1) shall include provisions to ensure adequate training of such officers and employees to conduct such examinations, testing, and investigations. The contract or memorandum shall contain provisions regarding reimbursement. Such provisions may, at the sole discretion of the head of the other department or agency, require reimbursement, in whole or in part, from the Secretary for the examinations, testing, or investigations performed pursuant to this section by the officers or employees of the State, territorial, or tribal department or agency.

"(3) EFFECT.—Nothing in this subsection shall be construed to limit the authority of the Secretary under section 702.

"(c) EXTENSION SERVICE.—The Secretary shall ensure coordination with the extension activities of the National Institute of Food and Agriculture of the Department of Agriculture in advising producers and small processors transitioning into new practices required as a result of the enactment of the FDA Food Safety Modernization Act and assisting regulated industry with compliance with such Act.

"(d) NATIONAL FOOD SAFETY TRAINING, EDUCATION, EXTENSION, OUTREACH, AND TECHNICAL ASSISTANCE PROGRAM.—

"(1) IN GENERAL.—In order to improve food safety and reduce the incidence of foodborne illness, the Secretary shall, not later than 180 days after the date of enactment of the FDA Food Safety Modernization Act, enter into one or more memoranda of understanding, or enter into other cooperative agreements, with the Secretary of Agriculture to establish a competitive grant program within the National Institute for Food and Agriculture to provide food safety training, education, extension, outreach, and technical assistance to—

"(A) owners and operators of farms;

"(B) small food processors; and

"(C) small fruit and vegetable merchant wholesalers.

"(2) IMPLEMENTATION.—The competitive grant program established under paragraph (1) shall be carried out in accordance with section 405 of the Agricultural Research, Extension, and Education Reform Act of 1998.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal years 2011 through 2015.".

(b) NATIONAL FOOD SAFETY TRAINING, EDUCATION, EXTENSION, OUTREACH, AND TECHNICAL ASSISTANCE PROGRAM.—Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 is amended by inserting after section 404 (7 U.S.C. 7624) the following:

"SEC. 405. NATIONAL FOOD SAFETY TRAINING, EDUCATION, EXTENSION, OUTREACH, AND TECHNICAL ASSISTANCE PROGRAM.

"(a) IN GENERAL.—The Secretary shall award grants under this section to carry out the competitive grant program established under section 1012(d) of the Federal Food, Drug, and Cosmetic Act, pursuant to any memoranda of understanding entered into under such section.

"(b) INTEGRATED APPROACH.—The grant program described under subsection (a) shall be carried out under this section in a manner that facilitates the integration of food safety standards and guidance with the variety of agricultural production systems, encompassing conventional, sustainable, organic, conservation, and environmental practices.

"(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to projects that target small- and medium-sized farms, beginning farmers, socially disadvantaged farmers, small processors, or small fresh fruit and vegetable merchant wholesalers.

"(d) PROGRAM COORDINATION.—

"(1) IN GENERAL.—The Secretary shall coordinate implementation of the grant program under this section with the National Integrated Food Safety Initiative.

"(2) INTERACTION.—The Secretary shall—

"(A) in carrying out the grant program under this section, take into consideration applied research, education, and extension results obtained from the National Integrated Food Safety Initiative; and

"(B) in determining the applied research agenda for the National Integrated Food Safety Initiative, take into consideration the needs articulated by participants in projects funded by the program under this section.

"(e) GRANTS.—

"(1) IN GENERAL.—In carrying out this section, the Secretary shall make competitive grants to support training, education, extension, outreach, and technical assistance projects that will help improve public health by increasing the understanding and adoption of established food safety standards, guidance, and protocols.

"(2) ENCOURAGED FEATURES.—The Secretary shall encourage projects carried out using grant funds under this section to include co-management of food safety, conservation systems, and ecological health.

"(3) MAXIMUM TERM AND SIZE OF GRANT.—

"(A) IN GENERAL.—A grant under this section shall have a term that is not more than 3 years.

"(B) LIMITATION ON GRANT FUNDING.—The Secretary may not provide grant funding to an entity under this section after such entity has received 3 years of grant funding under this section.

"(f) GRANT ELIGIBILITY.—

"(1) IN GENERAL.—To be eligible for a grant under this section, an entity shall be—

"(A) a State cooperative extension service;

"(B) a Federal, State, local, or tribal agency, a nonprofit community-based or nongovernmental organization, or an

organization representing owners and operators of farms, small food processors, or small fruit and vegetable merchant wholesalers that has a commitment to public health and expertise in administering programs that contribute to food safety;

"(C) an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) or a foundation maintained by an institution of higher education;

"(D) a collaboration of 2 or more eligible entities described in this subsection; or

"(E) such other appropriate entity, as determined by the Secretary.

"(2) MULTISTATE PARTNERSHIPS.—Grants under this section may be made for projects involving more than 1 State.

"(g) REGIONAL BALANCE.—In making grants under this section, the Secretary shall, to the maximum extent practicable, ensure—

"(1) geographic diversity; and

"(2) diversity of types of agricultural production.

"(h) TECHNICAL ASSISTANCE.—The Secretary may use funds made available under this section to provide technical assistance to grant recipients to further the purposes of this section.

"(i) BEST PRACTICES AND MODEL PROGRAMS.—Based on evaluations of, and responses arising from, projects funded under this section, the Secretary may issue a set of recommended best practices and models for food safety training programs for agricultural producers, small food processors, and small fresh fruit and vegetable merchant wholesalers.

"(j) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of making grants under this section, there are authorized to be appropriated such sums as may be necessary for fiscal years 2011 through 2015.".

SEC. 6210. ENHANCING FOOD SAFETY.

(a) GRANTS TO ENHANCE FOOD SAFETY.—Section 1009 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 399) is amended to read as follows:

"SEC. 1009. GRANTS TO ENHANCE FOOD SAFETY.

"(a) IN GENERAL.—The Secretary is authorized to make grants to eligible entities to—

"(1) undertake examinations, inspections, investigations, and related food safety activities under section 702;

"(2) train to the standards of the Secretary for the examination, inspection, and investigation of food manufacturing, processing, packing, holding, distribution, and importation, including as such examination, inspection, and investigation relate to retail food establishments;

"(3) build the food safety capacity of the laboratories of such eligible entity, including the detection of zoonotic diseases;

"(4) build the infrastructure and capacity of the food safety programs of such eligible entity to meet the standards as outlined in the grant application; and

"(5) take appropriate action to protect the public health in response to—

"(A) a notification under section 1008, including planning and otherwise preparing to take such action; or

"(B) a recall of food under this Act.

"(b) ELIGIBLE ENTITIES; APPLICATION.—

"(1) IN GENERAL.—In this section, the term 'eligible entity' means an entity—

"(A) that is—

"(i) a State;

"(ii) a locality;

"(iii) a territory;

"(iv) an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act); or

"(v) a nonprofit food safety training entity that collaborates with 1 or more institutions of higher education; and

"(B) that submits an application to the Secretary at such time, in such manner, and including such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each application submitted under paragraph (1) shall include—

"(A) an assurance that the eligible entity has developed plans to engage in the types of activities described in subsection (a);

"(B) a description of the types of activities to be funded by the grant;

"(C) an itemization of how grant funds received under this section will be expended;

"(D) a description of how grant activities will be monitored; and

"(E) an agreement by the eligible entity to report information required by the Secretary to conduct evaluations under this section.

"(c) LIMITATIONS.—The funds provided under subsection (a) shall be available to an eligible entity that receives a grant under this section only to the extent such entity funds the food safety programs of such entity independently of any grant under this section in each year of the grant at a level equal to the level of such funding in the previous year, increased by the Consumer Price Index. Such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

"(d) ADDITIONAL AUTHORITY.—The Secretary may—

"(1) award a grant under this section in each subsequent fiscal year without reapplication for a period of not more than 3 years, provided the requirements of subsection (c) are met for the previous fiscal year; and

"(2) award a grant under this section in a fiscal year for which the requirement of subsection (c) has not been met only if such requirement was not met because such funding was diverted for response to 1 or more natural disasters or in other extenuating circumstances that the Secretary may determine appropriate.

"(e) DURATION OF AWARDS.—The Secretary may award grants to an individual grant recipient under this section for periods of not more than 3 years. In the event the Secretary conducts a program evaluation, funding in the second year or third year of the grant, where applicable, shall be contingent on a successful program evaluation by the Secretary after the first year.

"(f) PROGRESS AND EVALUATION.—

"(1) IN GENERAL.—The Secretary shall measure the status and success of each grant program authorized under the FDA Food Safety Modernization Act (and any amendment made by such Act), including the grant program under this section. A recipient of a grant described in the preceding sentence shall, at the end of each grant year, provide the Secretary with information on how grant funds were spent and the status of the efforts by such recipient to enhance food safety. To the extent practicable, the Secretary shall take the performance of such a grant recipient into account when determining whether to continue funding for such recipient.

"(2) NO DUPLICATION.—In carrying out paragraph (1), the Secretary shall not duplicate the efforts of the Secretary under other provisions of this Act or the FDA Food Safety Modernization Act that require measurement and review of the activities of grant recipients under either such Act.

"(g) SUPPLEMENT NOT SUPPLANT.—Grant funds received under this section shall be used to supplement, and not supplant, non-Federal funds and any other Federal funds available to carry out the activities described in this section.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under this section, there are authorized to be appropriated such sums as may be necessary for fiscal years 2011 through 2015.".

(b) CENTERS OF EXCELLENCE.—Part P of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

"SEC. 399V–5. FOOD SAFETY INTEGRATED CENTERS OF EXCELLENCE.

"(a) IN GENERAL.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the working group described in subsection (b)(2), shall designate 5 Integrated Food Safety Centers of Excellence (referred to in this section as the 'Centers of Excellence') to serve as resources for Federal, State, and local public health professionals to respond to foodborne illness outbreaks. The Centers of Excellence shall be headquartered at selected State health departments.

"(b) SELECTION OF CENTERS OF EXCELLENCE.—

"(1) ELIGIBLE ENTITIES.—To be eligible to be designated as a Center of Excellence under subsection (a), an entity shall—

"(A) be a State health department;

"(B) partner with 1 or more institutions of higher education that have demonstrated knowledge, expertise, and meaningful experience with regional or national food production, processing, and distribution, as well as leadership in the laboratory, epidemiological, and environmental detection and investigation of foodborne illness; and

"(C) provide to the Secretary such information, at such time, and in such manner, as the Secretary may require.

"(2) WORKING GROUP.—Not later than 180 days after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall establish a diverse working group of experts and stakeholders from Federal, State, and local food safety and health agencies, the food industry, including food retailers and food manufacturers, consumer organizations, and academia to make recommendations to the Secretary regarding designations of the Centers of Excellence.

"(3) ADDITIONAL CENTERS OF EXCELLENCE.—The Secretary may designate eligible entities to be regional Food Safety Centers of Excellence, in addition to the 5 Centers designated under subsection (a).

"(c) ACTIVITIES.—Under the leadership of the Director of the Centers for Disease Control and Prevention, each Center of Excellence shall be based out of a selected State health department, which shall provide assistance to other regional, State, and local departments of health through activities that include—

"(1) providing resources, including timely information concerning symptoms and tests, for frontline health professionals interviewing individuals as part of routine surveillance and outbreak investigations;

"(2) providing analysis of the timeliness and effectiveness of foodborne disease surveillance and outbreak response activities;

"(3) providing training for epidemiological and environmental investigation of foodborne illness, including suggestions for streamlining and standardizing the investigation process;

"(4) establishing fellowships, stipends, and scholarships to train future epidemiological and food-safety leaders and to address critical workforce shortages;

"(5) training and coordinating State and local personnel;

"(6) strengthening capacity to participate in existing or new foodborne illness surveillance and environmental assessment information systems; and

"(7) conducting research and outreach activities focused on increasing prevention, communication, and education regarding food safety.

"(d) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall submit to Congress a report that—

"(1) describes the effectiveness of the Centers of Excellence; and

"(2) provides legislative recommendations or describes additional resources required by the Centers of Excellence.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

"(f) NO DUPLICATION OF EFFORT.—In carrying out activities of the Centers of Excellence or other programs under this section, the Secretary shall not duplicate other Federal foodborne illness response efforts.".

SEC. 6211. IMPROVING THE REPORTABLE FOOD REGISTRY.

(a) IN GENERAL.—Section 417 (21 U.S.C. 350f) is amended—

(1) by redesignating subsections (f) through (k) as subsections (i) through (n), respectively; and

(2) by inserting after subsection (e) the following:

"(f) CRITICAL INFORMATION.—Except with respect to fruits and vegetables that are raw agricultural commodities, not more than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary may require a responsible party to submit to the Secretary consumer-oriented information regarding a reportable food, which shall include—

"(1) a description of the article of food as provided in subsection (e)(3);

"(2) as provided in subsection (e)(7), affected product identification codes, such as UPC, SKU, or lot or batch numbers sufficient for the consumer to identify the article of food;

"(3) contact information for the responsible party as provided in subsection (e)(8); and

"(4) any other information the Secretary determines is necessary to enable a consumer to accurately identify whether such consumer is in possession of the reportable food.

"(g) GROCERY STORE NOTIFICATION.—

"(1) ACTION BY SECRETARY.—The Secretary shall—

"(A) prepare the critical information described under subsection (f) for a reportable food as a standardized one-page summary;

"(B) publish such one-page summary on the Internet website of the Food and Drug Administration in a format that can be easily printed by a grocery store for purposes of consumer notification.

"(2) ACTION BY GROCERY STORE.—A notification described under paragraph (1)(B) shall include the date and time such summary was posted on the Internet website of the Food and Drug Administration.

"(h) CONSUMER NOTIFICATION.—

"(1) IN GENERAL.—If a grocery store sold a reportable food that is the subject of the posting and such establishment is part of chain of establishments with 15 or more physical locations, then such establishment shall, not later than 24 hours after a one page summary described in subsection (g) is published, prominently display such summary or the information from such summary via at least one of the methods identified under paragraph (2) and maintain the display for 14 days.

"(2) LIST OF CONSPICUOUS LOCATIONS.—Not more than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall develop and publish a list of acceptable conspicuous locations and manners, from which grocery stores shall select at least one, for providing the notification required in paragraph (1). Such list shall include—

"(A) posting the notification at or near the register;

"(B) providing the location of the reportable food;

"(C) providing targeted recall information given to customers upon purchase of a food; and

"(D) other such prominent and conspicuous locations and manners utilized by grocery stores as of the date of the enactment of the FDA Food Safety Modernization Act to pro-

vide notice of such recalls to consumers as considered appropriate by the Secretary.".

(b) PROHIBITED ACT.—Section 301 (21 U.S.C. 331), as amended by section 6206, is amended by adding at the end the following:

"(yy) The knowing and willful failure to comply with the notification requirement under section 417(h).".

(c) CONFORMING AMENDMENT.—Section 301(e) (21 U.S.C. 331(e)) is amended by striking "417(g)" and inserting "417(j)".

TITLE III—IMPROVING THE SAFETY OF IMPORTED FOOD

SEC. 6301. FOREIGN SUPPLIER VERIFICATION PROGRAM.

(a) IN GENERAL.—Chapter VIII (21 U.S.C. 381 et seq.) is amended by adding at the end the following:

"SEC. 805. FOREIGN SUPPLIER VERIFICATION PROGRAM.

"(a) IN GENERAL.—

"(1) VERIFICATION REQUIREMENT.—Except as provided under subsections (e) and (f), each importer shall perform risk-based foreign supplier verification activities for the purpose of verifying that the food imported by the importer or agent of an importer is—

"(A) produced in compliance with the requirements of section 418 or section 419, as appropriate; and

"(B) is not adulterated under section 402 or misbranded under section 403(w).

"(2) IMPORTER DEFINED.—For purposes of this section, the term 'importer' means, with respect to an article of food—

"(A) the United States owner or consignee of the article of food at the time of entry of such article into the United States; or

"(B) in the case when there is no United States owner or consignee as described in subparagraph (A), the United States agent or representative of a foreign owner or consignee of the article of food at the time of entry of such article into the United States.

"(b) GUIDANCE.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall issue guidance to assist importers in developing foreign supplier verification programs.

"(c) REGULATIONS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall promulgate regulations to provide for the content of the foreign supplier verification program established under subsection (a).

"(2) REQUIREMENTS.—The regulations promulgated under paragraph (1)—

"(A) shall require that the foreign supplier verification program of each importer be adequate to provide assurances that each foreign supplier to the importer produces the imported food in compliance with—

"(i) processes and procedures, including reasonably appropriate risk-based preventive controls, that pro-

vide the same level of public health protection as those required under section 418 or section 419 (taking into consideration variances granted under section 419), as appropriate; and

"(ii) section 402 and section 403(w).

"(B) shall include such other requirements as the Secretary deems necessary and appropriate to verify that food imported into the United States is as safe as food produced and sold within the United States.

"(3) CONSIDERATIONS.—In promulgating regulations under this subsection, the Secretary shall, as appropriate, take into account differences among importers and types of imported foods, including based on the level of risk posed by the imported food.

"(4) ACTIVITIES.—Verification activities under a foreign supplier verification program under this section may include monitoring records for shipments, lot-by-lot certification of compliance, annual on-site inspections, checking the hazard analysis and risk-based preventive control plan of the foreign supplier, and periodically testing and sampling shipments.

"(d) RECORD MAINTENANCE AND ACCESS.—Records of an importer related to a foreign supplier verification program shall be maintained for a period of not less than 2 years and shall be made available promptly to a duly authorized representative of the Secretary upon request.

"(e) EXEMPTION OF SEAFOOD, JUICE, AND LOW-ACID CANNED FOOD FACILITIES IN COMPLIANCE WITH HACCP.—This section shall not apply to a facility if the owner, operator, or agent in charge of such facility is required to comply with, and is in compliance with, 1 of the following standards and regulations with respect to such facility:

"(1) The Seafood Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

"(2) The Juice Hazard Analysis Critical Control Points Program of the Food and Drug Administration.

"(3) The Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers standards of the Food and Drug Administration (or any successor standards).

The exemption under paragraph (3) shall apply only with respect to microbiological hazards that are regulated under the standards for Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers under part 113 of chapter 21, Code of Federal Regulations (or any successor regulations).

"(f) ADDITIONAL EXEMPTIONS.—The Secretary, by notice published in the Federal Register, shall establish an exemption from the requirements of this section for articles of food imported in small quantities for research and evaluation purposes or for personal consumption, provided that such foods are not intended for retail sale and are not sold or distributed to the public.

"(g) PUBLICATION OF LIST OF PARTICIPANTS.—The Secretary shall publish and maintain on the Internet Web site of the Food and Drug Administration a current list that includes the name of, location of, and other information deemed necessary by the Secretary about, importers participating under this section.".

(b) PROHIBITED ACT.—Section 301 (21 U.S.C. 331), as amended by section 6211, is amended by adding at the end the following:

"(zz) The importation or offering for importation of a food if the importer (as defined in section 805) does not have in place a foreign supplier verification program in compliance with such section 805.".

(c) IMPORTS.—Section 801(a) (21 U.S.C. 381(a)) is amended by adding "or the importer (as defined in section 805) is in violation of such section 805" after "or in violation of section 505".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 2 years after the date of enactment of this Act.

SEC. 6302. VOLUNTARY QUALIFIED IMPORTER PROGRAM.

Chapter VIII (21 U.S.C. 381 et seq.), as amended by section 6301, is amended by adding at the end the following:

"SEC. 806. VOLUNTARY QUALIFIED IMPORTER PROGRAM.

"(a) IN GENERAL.—Beginning not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall—

"(1) establish a program, in consultation with the Secretary of Homeland Security—

"(A) to provide for the expedited review and importation of food offered for importation by importers who have voluntarily agreed to participate in such program; and

"(B) consistent with section 808, establish a process for the issuance of a facility certification to accompany food offered for importation by importers who have voluntarily agreed to participate in such program; and

"(2) issue a guidance document related to participation in, revocation of such participation in, reinstatement in, and compliance with, such program.

"(b) VOLUNTARY PARTICIPATION.—An importer may request the Secretary to provide for the expedited review and importation of designated foods in accordance with the program established by the Secretary under subsection (a).

"(c) NOTICE OF INTENT TO PARTICIPATE.—An importer that intends to participate in the program under this section in a fiscal year shall submit a notice and application to the Secretary of such intent at the time and in a manner established by the Secretary.

"(d) ELIGIBILITY.—Eligibility shall be limited to an importer offering food for importation from a facility that has a certification described in subsection (a). In reviewing the applications and making determinations on such applications, the Secretary shall consider the risk of the food to be imported based on factors, such as the following:

"(1) The known safety risks of the food to be imported.

"(2) The compliance history of foreign suppliers used by the importer, as appropriate.

"(3) The capability of the regulatory system of the country of export to ensure compliance with United States food safety standards for a designated food.

"(4) The compliance of the importer with the requirements of section 805.

"(5) The recordkeeping, testing, inspections and audits of facilities, traceability of articles of food, temperature controls, and sourcing practices of the importer.

"(6) The potential risk for intentional adulteration of the food.

"(7) Any other factor that the Secretary determines appropriate.

"(e) REVIEW AND REVOCATION.—Any importer qualified by the Secretary in accordance with the eligibility criteria set forth in this section shall be reevaluated not less often than once every 3 years and the Secretary shall promptly revoke the qualified importer status of any importer found not to be in compliance with such criteria.

"(f) FALSE STATEMENTS.—Any statement or representation made by an importer to the Secretary shall be subject to section 1001 of title 18, United States Code.

"(g) DEFINITION.—For purposes of this section, the term 'importer' means the person that brings food, or causes food to be brought, from a foreign country into the customs territory of the United States.".

SEC. 6303. AUTHORITY TO REQUIRE IMPORT CERTIFICATIONS FOR FOOD.

(a) IN GENERAL.—Section 801(a) (21 U.S.C. 381(a)) is amended by inserting after the third sentence the following: "With respect to an article of food, if importation of such food is subject to, but not compliant with, the requirement under subsection (q) that such food be accompanied by a certification or other assurance that the food meets applicable requirements of this Act, then such article shall be refused admission.".

(b) ADDITION OF CERTIFICATION REQUIREMENT.—Section 801 (21 U.S.C. 381) is amended by adding at the end the following new subsection:

"(q) CERTIFICATIONS CONCERNING IMPORTED FOODS.—

"(1) IN GENERAL.—The Secretary may require, as a condition of granting admission to an article of food imported or offered for import into the United States, that an entity described in paragraph (3) provide a certification, or such other assurances as the Secretary determines appropriate, that the article of food complies with applicable requirements of this Act. Such certification or assurances may be provided in the form of shipment-specific certificates, a listing of certified facilities that manufacture, process, pack, or hold such food, or in such other form as the Secretary may specify.

"(2) FACTORS TO BE CONSIDERED IN REQUIRING CERTIFICATION.—The Secretary shall base the determination that an article of food is required to have a certification described in paragraph (1) on the risk of the food, including—

"(A) known safety risks associated with the food;

"(B) known food safety risks associated with the country, territory, or region of origin of the food;

"(C) a finding by the Secretary, supported by scientific, risk-based evidence, that—

"(i) the food safety programs, systems, and standards in the country, territory, or region of origin of the food are inadequate to ensure that the article of food is as safe as a similar article of food that is manufactured, processed, packed, or held in the United States in accordance with the requirements of this Act; and

"(ii) the certification would assist the Secretary in determining whether to refuse or admit the article of food under subsection (a); and

"(D) information submitted to the Secretary in accordance with the process established in paragraph (7).

"(3) CERTIFYING ENTITIES.—For purposes of paragraph (1), entities that shall provide the certification or assurances described in such paragraph are—

"(A) an agency or a representative of the government of the country from which the article of food at issue originated, as designated by the Secretary; or

"(B) such other persons or entities accredited pursuant to section 808 to provide such certification or assurance.

"(4) RENEWAL AND REFUSAL OF CERTIFICATIONS.—The Secretary may—

"(A) require that any certification or other assurance provided by an entity specified in paragraph (2) be renewed by such entity at such times as the Secretary determines appropriate; and

"(B) refuse to accept any certification or assurance if the Secretary determines that such certification or assurance is not valid or reliable.

"(5) ELECTRONIC SUBMISSION.—The Secretary shall provide for the electronic submission of certifications under this subsection.

"(6) FALSE STATEMENTS.—Any statement or representation made by an entity described in paragraph (2) to the Secretary shall be subject to section 1001 of title 18, United States Code.

"(7) ASSESSMENT OF FOOD SAFETY PROGRAMS, SYSTEMS, AND STANDARDS.—If the Secretary determines that the food safety programs, systems, and standards in a foreign region, country, or territory are inadequate to ensure that an article of food is as safe as a similar article of food that is manufactured, processed, packed, or held in the United States in accordance with the requirements of this Act, the Secretary shall, to the extent practicable, identify such inadequacies and establish a process by which the foreign region, country, or territory may inform the Secretary of improvements made to such food safety program, system, or standard and demonstrate that those controls are adequate to ensure that an article of food is as safe as a similar article of food that is manufactured, processed, packed, or held in the United States in accordance with the requirements of this Act.".

(c) CONFORMING TECHNICAL AMENDMENT.—Section 801(b) (21 U.S.C. 381(b)) is amended in the second sentence by striking "with respect to an article included within the provision of the fourth sentence of subsection (a)" and inserting "with respect to an article described in subsection (a) relating to the requirements of sections 760 or 761,".

(d) NO LIMIT ON AUTHORITY.—Nothing in the amendments made by this section shall limit the authority of the Secretary to conduct inspections of imported food or to take such other steps as the Secretary deems appropriate to determine the admissibility of imported food.

SEC. 6304. PRIOR NOTICE OF IMPORTED FOOD SHIPMENTS.

(a) IN GENERAL.—Section 801(m)(1) (21 U.S.C. 381(m)(1)) is amended by inserting "any country to which the article has been refused entry;" after "the country from which the article is shipped;".

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue an interim final rule amending subpart I of part 1 of title 21, Code of Federal Regulations, to implement the amendment made by this section.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. 6305. BUILDING CAPACITY OF FOREIGN GOVERNMENTS WITH RESPECT TO FOOD SAFETY.

(a) IN GENERAL.—The Secretary shall, not later than 2 years of the date of enactment of this Act, develop a comprehensive plan to expand the technical, scientific, and regulatory food safety capacity of foreign governments, and their respective food industries, from which foods are exported to the United States.

(b) CONSULTATION.—In developing the plan under subsection (a), the Secretary shall consult with the Secretary of Agriculture, Secretary of State, Secretary of the Treasury, the Secretary of Homeland Security, the United States Trade Representative, and the Secretary of Commerce, representatives of the food industry, appropriate foreign government officials, nongovernmental organizations that represent the interests of consumers, and other stakeholders.

(c) PLAN.—The plan developed under subsection (a) shall include, as appropriate, the following:

(1) Recommendations for bilateral and multilateral arrangements and agreements, including provisions to provide for responsibility of exporting countries to ensure the safety of food.

(2) Provisions for secure electronic data sharing.

(3) Provisions for mutual recognition of inspection reports.

(4) Training of foreign governments and food producers on United States requirements for safe food.

(5) Recommendations on whether and how to harmonize requirements under the Codex Alimentarius.

(6) Provisions for the multilateral acceptance of laboratory methods and testing and detection techniques.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the regulation of dietary supplements under the Dietary Supplement Health and Education Act of 1994 (Public Law 103–417).

SEC. 6306. INSPECTION OF FOREIGN FOOD FACILITIES.

(a) IN GENERAL.—Chapter VIII (21 U.S.C. 381 et seq.), as amended by section 6302, is amended by inserting at the end the following:

"SEC. 807. INSPECTION OF FOREIGN FOOD FACILITIES.

"(a) INSPECTION.—The Secretary—

"(1) may enter into arrangements and agreements with foreign governments to facilitate the inspection of foreign facilities registered under section 415; and

"(2) shall direct resources to inspections of foreign facilities, suppliers, and food types, especially such facilities, suppliers, and food types that present a high risk (as identified by the

Secretary), to help ensure the safety and security of the food supply of the United States.

"(b) EFFECT OF INABILITY TO INSPECT.—Notwithstanding any other provision of law, food shall be refused admission into the United States if it is from a foreign factory, warehouse, or other establishment of which the owner, operator, or agent in charge, or the government of the foreign country, refuses to permit entry of United States inspectors or other individuals duly designated by the Secretary, upon request, to inspect such factory, warehouse, or other establishment. For purposes of this subsection, such an owner, operator, or agent in charge shall be considered to have refused an inspection if such owner, operator, or agent in charge does not permit an inspection of a factory, warehouse, or other establishment during the 24-hour period after such request is submitted, or after such other time period, as agreed upon by the Secretary and the foreign factory, warehouse, or other establishment.".

(b) INSPECTION BY THE SECRETARY OF COMMERCE.—

(1) IN GENERAL.—The Secretary of Commerce, in coordination with the Secretary of Health and Human Services, may send 1 or more inspectors to a country or facility of an exporter from which seafood imported into the United States originates. The inspectors shall assess practices and processes used in connection with the farming, cultivation, harvesting, preparation for market, or transportation of such seafood and may provide technical assistance related to such activities.

(2) INSPECTION REPORT.—

(A) IN GENERAL.—The Secretary of Health and Human Services, in coordination with the Secretary of Commerce, shall—

(i) prepare an inspection report for each inspection conducted under paragraph (1);

(ii) provide the report to the country or exporter that is the subject of the report; and

(iii) provide a 30-day period during which the country or exporter may provide a rebuttal or other comments on the findings of the report to the Secretary of Health and Human Services.

(B) DISTRIBUTION AND USE OF REPORT.—The Secretary of Health and Human Services shall consider the inspection reports described in subparagraph (A) in distributing inspection resources under section 421 of the Federal Food, Drug, and Cosmetic Act, as added by section 6201.

SEC. 6307. ACCREDITATION OF THIRD-PARTY AUDITORS.

Chapter VIII (21 U.S.C. 381 et seq.), as amended by section 6306, is amended by adding at the end the following:

"SEC. 808. ACCREDITATION OF THIRD-PARTY AUDITORS.

"(a) DEFINITIONS.—In this section:

"(1) AUDIT AGENT.—The term 'audit agent' means an individual who is an employee or agent of an accredited third-party auditor and, although not individually accredited, is qualified to conduct food safety audits on behalf of an accredited third-party auditor.

"(2) ACCREDITATION BODY.—The term 'accreditation body' means an authority that performs accreditation of third-party auditors.

"(3) THIRD-PARTY AUDITOR.—The term 'third-party auditor' means a foreign government, agency of a foreign government, foreign cooperative, or any other thirdparty, as the Secretary determines appropriate in accordance with the model standards described in subsection (b)(2), that is eligible to be considered for accreditation to conduct food safety audits to certify that eligible entities meet the applicable requirements of this section. A third-party auditor may be a single individual. A third-party auditor may employ or use audit agents to help conduct consultative and regulatory audits.

"(4) ACCREDITED THIRD-PARTY AUDITOR.—The term 'accredited third-party auditor' means a third-party auditor accredited by an accreditation body to conduct audits of eligible entities to certify that such eligible entities meet the applicable requirements of this section. An accredited third-party auditor may be an individual who conducts food safety audits to certify that eligible entities meet the applicable requirements of this section.

"(5) CONSULTATIVE AUDIT.—The term 'consultative audit' means an audit of an eligible entity—

"(A) to determine whether such entity is in compliance with the provisions of this Act and with applicable industry standards and practices; and

"(B) the results of which are for internal purposes only.

"(6) ELIGIBLE ENTITY.—The term 'eligible entity' means a foreign entity, including a foreign facility registered under section 415, in the food import supply chain that chooses to be audited by an accredited third-party auditor or the audit agent of such accredited third-party auditor.

"(7) REGULATORY AUDIT.—The term 'regulatory audit' means an audit of an eligible entity—

"(A) to determine whether such entity is in compliance with the provisions of this Act; and

"(B) the results of which determine—

"(i) whether an article of food manufactured, processed, packed, or held by such entity is eligible to receive a food certification under section 801(q); or

"(ii) whether a facility is eligible to receive a facility certification under section 806(a) for purposes of participating in the program under section 806.

"(b) ACCREDITATION SYSTEM.—

"(1) ACCREDITATION BODIES.—

"(A) RECOGNITION OF ACCREDITATION BODIES.—

"(i) IN GENERAL.—Not later than 2 years after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall establish a system for the recognition of accreditation bodies that accredit third-party auditors to certify that eligible entities meet the applicable requirements of this section.

"(ii) DIRECT ACCREDITATION.—If, by the date that is 2 years after the date of establishment of the system described in clause (i), the Secretary has not identified

and recognized an accreditation body to meet the requirements of this section, the Secretary may directly accredit third-party auditors.

"(B) NOTIFICATION.—Each accreditation body recognized by the Secretary shall submit to the Secretary a list of all accredited third-party auditors accredited by such body and the audit agents of such auditors.

"(C) REVOCATION OF RECOGNITION AS AN ACCREDITATION BODY.—The Secretary shall promptly revoke the recognition of any accreditation body found not to be in compliance with the requirements of this section.

"(D) REINSTATEMENT.—The Secretary shall establish procedures to reinstate recognition of an accreditation body if the Secretary determines, based on evidence presented by such accreditation body, that revocation was inappropriate or that the body meets the requirements for recognition under this section.

"(2) MODEL ACCREDITATION STANDARDS.—Not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act, the Secretary shall develop model standards, including requirements for regulatory audit reports, and each recognized accreditation body shall ensure that third-party auditors and audit agents of such auditors meet such standards in order to qualify such third-party auditors as accredited third-party auditors under this section. In developing the model standards, the Secretary shall look to standards in place on the date of the enactment of this section for guidance, to avoid unnecessary duplication of efforts and costs.

"(c) THIRD-PARTY AUDITORS.—

"(1) REQUIREMENTS FOR ACCREDITATION AS A THIRD-PARTY AUDITOR.—

"(A) FOREIGN GOVERNMENTS.—Prior to accrediting a foreign government or an agency of a foreign government as an accredited third-party auditor, the accreditation body (or, in the case of direct accreditation under subsection (b)(1)(A)(ii), the Secretary) shall perform such reviews and audits of food safety programs, systems, and standards of the government or agency of the government as the Secretary deems necessary, including requirements under the model standards developed under subsection (b)(2), to determine that the foreign government or agency of the foreign government is capable of adequately ensuring that eligible entities or foods certified by such government or agency meet the requirements of this Act with respect to food manufactured, processed, packed, or held for import into the United States.

"(B) FOREIGN COOPERATIVES AND OTHER THIRD PARTIES.—Prior to accrediting a foreign cooperative that aggregates the products of growers or processors, or any other third party to be an accredited third-party auditor, the accreditation body (or, in the case of direct accreditation under subsection (b)(1)(A)(ii), the Secretary) shall perform such reviews and audits of the training and qualifications of audit agents used by that cooperative or party and conduct such reviews of internal systems and such other

investigation of the cooperative or party as the Secretary deems necessary, including requirements under the model standards developed under subsection (b)(2), to determine that each eligible entity certified by the cooperative or party has systems and standards in use to ensure that such entity or food meets the requirements of this Act.

"(2) REQUIREMENT TO ISSUE CERTIFICATION OF ELIGIBLE ENTITIES OR FOODS.—

"(A) IN GENERAL.—An accreditation body (or, in the case of direct accreditation under subsection (b)(1)(A)(ii), the Secretary) may not accredit a third-party auditor unless such third-party auditor agrees to issue a written and, as appropriate, electronic food certification, described in section 801(q), or facility certification under section 806(a), as appropriate, to accompany each food shipment for import into the United States from an eligible entity, subject to requirements set forth by the Secretary. Such written or electronic certification may be included with other documentation regarding such food shipment. The Secretary shall consider certifications under section 801(q) and participation in the voluntary qualified importer program described in section 806 when targeting inspection resources under section 421.

"(B) PURPOSE OF CERTIFICATION.—The Secretary shall use certification provided by accredited third-party auditors to—

"(i) determine, in conjunction with any other assurances the Secretary may require under section 801(q), whether a food satisfies the requirements of such section; and

"(ii) determine whether a facility is eligible to be a facility from which food may be offered for import under the voluntary qualified importer program under section 806.

"(C) REQUIREMENTS FOR ISSUING CERTIFICATION.—

"(i) IN GENERAL.—An accredited third-party auditor shall issue a food certification under section 801(q) or a facility certification described under subparagraph (B) only after conducting a regulatory audit and such other activities that may be necessary to establish compliance with the requirements of such sections.

"(ii) PROVISION OF CERTIFICATION.—Only an accredited third-party auditor or the Secretary may provide a facility certification under section 806(a). Only those parties described in 801(q)(3) or the Secretary may provide a food certification under 301(g).

"(3) AUDIT REPORT SUBMISSION REQUIREMENTS.—

"(A) REQUIREMENTS IN GENERAL.—As a condition of accreditation, not later than 45 days after conducting an audit, an accredited third-party auditor or audit agent of such auditor shall prepare, and, in the case of a regulatory audit, submit, the audit report for each audit conducted, in a form and manner designated by the Secretary, which shall include—

"(i) the identity of the persons at the audited eligible entity responsible for compliance with food safety requirements;

"(ii) the dates of the audit;

"(iii) the scope of the audit; and

"(iv) any other information required by the Secretary that relates to or may influence an assessment of compliance with this Act.

"(B) RECORDS.—Following any accreditation of a third-party auditor, the Secretary may, at any time, require the accredited third-party auditor to submit to the Secretary an onsite audit report and such other reports or documents required as part of the audit process, for any eligible entity certified by the third-party auditor or audit agent of such auditor. Such report may include documentation that the eligible entity is in compliance with any applicable registration requirements.

"(C) LIMITATION.—The requirement under subparagraph (B) shall not include any report or other documents resulting from a consultative audit by the accredited third-party auditor, except that the Secretary may access the results of a consultative audit in accordance with section 414.

"(4) REQUIREMENTS OF ACCREDITED THIRD-PARTY AUDITORS AND AUDIT AGENTS OF SUCH AUDITORS.—

"(A) RISKS TO PUBLIC HEALTH.—If, at any time during an audit, an accredited third-party auditor or audit agent of such auditor discovers a condition that could cause or contribute to a serious risk to the public health, such auditor shall immediately notify the Secretary of—

"(i) the identification of the eligible entity subject to the audit; and

"(ii) such condition.

"(B) TYPES OF AUDITS.—An accredited third-party auditor or audit agent of such auditor may perform consultative and regulatory audits of eligible entities.

"(C) LIMITATIONS.—

"(i) IN GENERAL.—An accredited third-party auditor may not perform a regulatory audit of an eligible entity if such agent has performed a consultative audit or a regulatory audit of such eligible entity during the previous 13-month period.

"(ii) WAIVER.—The Secretary may waive the application of clause (i) if the Secretary determines that there is insufficient access to accredited third-party auditors in a country or region.

"(5) CONFLICTS OF INTEREST.—

"(A) THIRD-PARTY AUDITORS.—An accredited third-party auditor shall—

"(i) not be owned, managed, or controlled by any person that owns or operates an eligible entity to be certified by such auditor;

"(ii) in carrying out audits of eligible entities under this section, have procedures to ensure against the use of any officer or employee of such auditor that has a

financial conflict of interest regarding an eligible entity to be certified by such auditor; and

"(iii) annually make available to the Secretary disclosures of the extent to which such auditor and the officers and employees of such auditor have maintained compliance with clauses (i) and (ii) relating to financial conflicts of interest.

"(B) AUDIT AGENTS.—An audit agent shall—

"(i) not own or operate an eligible entity to be audited by such agent;

"(ii) in carrying out audits of eligible entities under this section, have procedures to ensure that such agent does not have a financial conflict of interest regarding an eligible entity to be audited by such agent; and

"(iii) annually make available to the Secretary disclosures of the extent to which such agent has maintained compliance with clauses (i) and (ii) relating to financial conflicts of interest.

"(C) REGULATIONS.—The Secretary shall promulgate regulations not later than 18 months after the date of enactment of the FDA Food Safety Modernization Act to implement this section and to ensure that there are protections against conflicts of interest between an accredited third-party auditor and the eligible entity to be certified by such auditor or audited by such audit agent. Such regulations shall include—

"(i) requiring that audits performed under this section be unannounced;

"(ii) a structure to decrease the potential for conflicts of interest, including timing and public disclosure, for fees paid by eligible entities to accredited third-party auditors; and

"(iii) appropriate limits on financial affiliations between an accredited third-party auditor or audit agents of such auditor and any person that owns or operates an eligible entity to be certified by such auditor, as described in subparagraphs (A) and (B).

"(6) WITHDRAWAL OF ACCREDITATION.—

"(A) IN GENERAL.—The Secretary shall withdraw accreditation from an accredited third-party auditor—

"(i) if food certified under section 801(q) or from a facility certified under paragraph (2)(B) by such third-party auditor is linked to an outbreak of foodborne illness that has a reasonable probability of causing serious adverse health consequences or death in humans or animals;

"(ii) following an evaluation and finding by the Secretary that the third-party auditor no longer meets the requirements for accreditation; or

"(iii) following a refusal to allow United States officials to conduct such audits and investigations as may be necessary to ensure continued compliance with the requirements set forth in this section.

"(B) ADDITIONAL BASIS FOR WITHDRAWAL OF ACCREDITATION.—The Secretary may withdraw accreditation from an accredited third-party auditor in the case that such third-party auditor is accredited by an accreditation body for which recognition as an accreditation body under subsection (b)(1)(C) is revoked, if the Secretary determines that there is good cause for the withdrawal.

"(C) EXCEPTION.—The Secretary may waive the application of subparagraph (A)(i) if the Secretary—

"(i) conducts an investigation of the material facts related to the outbreak of human or animal illness; and

"(ii) reviews the steps or actions taken by the third-party auditor to justify the certification and determines that the accredited third-party auditor satisfied the requirements under section 801(q) of certifying the food, or the requirements under paragraph (2)(B) of certifying the entity.

"(7) REACCREDITATION.—The Secretary shall establish procedures to reinstate the accreditation of a third-party auditor for which accreditation has been withdrawn under paragraph (6)—

"(A) if the Secretary determines, based on evidence presented, that the third-party auditor satisfies the requirements of this section and adequate grounds for revocation no longer exist; and

"(B) in the case of a third-party auditor accredited by an accreditation body for which recognition as an accreditation body under subsection (b)(1)(C) is revoked—

"(i) if the third-party auditor becomes accredited not later than 1 year after revocation of accreditation under paragraph (6)(A), through direct accreditation under subsection (b)(1)(A)(ii) or by an accreditation body in good standing; or

"(ii) under such conditions as the Secretary may require for a third-party auditor under paragraph (6)(B).

"(8) NEUTRALIZING COSTS.—The Secretary shall establish by regulation a reimbursement (user fee) program, similar to the method described in section 203(h) of the Agriculture Marketing Act of 1946, by which the Secretary assesses fees and requires accredited third-party auditors and audit agents to reimburse the Food and Drug Administration for the work performed to establish and administer the accreditation system under this section. The Secretary shall make operating this program revenue-neutral and shall not generate surplus revenue from such a reimbursement mechanism. Fees authorized under this paragraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriation Acts. Such fees are authorized to remain available until expended.

"(d) RECERTIFICATION OF ELIGIBLE ENTITIES.—An eligible entity shall apply for annual recertification by an accredited third-party auditor if such entity—

"(1) intends to participate in voluntary qualified importer program under section 806; or

"(2) is required to provide to the Secretary a certification under section 801(q) for any food from such entity.

"(e) FALSE STATEMENTS.—Any statement or representation made—

"(1) by an employee or agent of an eligible entity to an accredited third-party auditor or audit agent; or

"(2) by an accredited third-party auditor to the Secretary,

shall be subject to section 1001 of title 18, United States Code.

"(f) MONITORING.—To ensure compliance with the requirements of this section, the Secretary shall—

"(1) periodically, or at least once every 4 years, reevaluate the accreditation bodies described in subsection (b)(1);

"(2) periodically, or at least once every 4 years, evaluate the performance of each accredited third-party auditor, through the review of regulatory audit reports by such auditors, the compliance history as available of eligible entities certified by such auditors, and any other measures deemed necessary by the Secretary;

"(3) at any time, conduct an onsite audit of any eligible entity certified by an accredited third-party auditor, with or without the auditor present; and

"(4) take any other measures deemed necessary by the Secretary.

"(g) PUBLICLY AVAILABLE REGISTRY.—The Secretary shall establish a publicly available registry of accreditation bodies and of accredited third-party auditors, including the name of, contact information for, and other information deemed necessary by the Secretary about such bodies and auditors.

"(h) LIMITATIONS.—

"(1) NO EFFECT ON SECTION 704 INSPECTIONS.—The audits performed under this section shall not be considered inspections under section 704.

"(2) NO EFFECT ON INSPECTION AUTHORITY.—Nothing in this section affects the authority of the Secretary to inspect any eligible entity pursuant to this Act.".

SEC. 6308. FOREIGN OFFICES OF THE FOOD AND DRUG ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall establish offices of the Food and Drug Administration in foreign countries selected by the Secretary, to provide assistance to the appropriate governmental entities of such countries with respect to measures to provide for the safety of articles of food and other products regulated by the Food and Drug Administration exported by such country to the United States, including by directly conducting risk-based inspections of such articles and supporting such inspections by such governmental entity.

(b) CONSULTATION.—In establishing the foreign offices described in subsection (a), the Secretary shall consult with the Secretary of State, the Secretary of Homeland Security, and the United States Trade Representative.

(c) REPORT.—Not later than October 1, 2011, the Secretary shall submit to Congress a report on the basis for the selection by the Secretary of the foreign countries in which the Secretary established offices, the progress which such offices have made with respect to assisting the governments of such countries in providing

for the safety of articles of food and other products regulated by the Food and Drug Administration exported to the United States, and the plans of the Secretary for establishing additional foreign offices of the Food and Drug Administration, as appropriate.

SEC. 6309. SMUGGLED FOOD.

(a) IN GENERAL.—Not later than 180 days after the enactment of this Act, the Secretary shall, in coordination with the Secretary of Homeland Security, develop and implement a strategy to better identify smuggled food and prevent entry of such food into the United States.

(b) NOTIFICATION TO HOMELAND SECURITY.—Not later than 10 days after the Secretary identifies a smuggled food that the Secretary believes would cause serious adverse health consequences or death to humans or animals, the Secretary shall provide to the Secretary of Homeland Security a notification under section 417(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350f(k)) describing the smuggled food and, if available, the names of the individuals or entities that attempted to import such food into the United States.

(c) PUBLIC NOTIFICATION.—If the Secretary—

(1) identifies a smuggled food;

(2) reasonably believes exposure to the food would cause serious adverse health consequences or death to humans or animals; and

(3) reasonably believes that the food has entered domestic commerce and is likely to be consumed,

the Secretary shall promptly issue a press release describing that food and shall use other emergency communication or recall networks, as appropriate, to warn consumers and vendors about the potential threat.

(d) EFFECT OF SECTION.—Nothing in this section shall affect the authority of the Secretary to issue public notifications under other circumstances.

(e) DEFINITION.—In this subsection, the term "smuggled food" means any food that a person introduces into the United States through fraudulent means or with the intent to defraud or mislead.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 6401. FUNDING FOR FOOD SAFETY.

(a) IN GENERAL.—There are authorized to be appropriated to carry out the activities of the Center for Food Safety and Applied Nutrition, the Center for Veterinary Medicine, and related field activities in the Office of Regulatory Affairs of the Food and Drug Administration such sums as may be necessary for fiscal years 2011 through 2015.

(b) INCREASED NUMBER OF FIELD STAFF.—

(1) IN GENERAL.—To carry out the activities of the Center for Food Safety and Applied Nutrition, the Center for Veterinary Medicine, and related field activities of the Office of Regulatory Affairs of the Food and Drug Administration, the Secretary of Health and Human Services shall increase the field staff of such Centers and Office with a goal of not fewer than—

(A) 4,000 staff members in fiscal year 2011;
(B) 4,200 staff members in fiscal year 2012;
(C) 4,600 staff members in fiscal year 2013; and
(D) 5,000 staff members in fiscal year 2014.

(2) FIELD STAFF FOR FOOD DEFENSE.—The goal under paragraph (1) shall include an increase of 150 employees by fiscal year 2011 to—

(A) provide additional detection of and response to food defense threats; and

(B) detect, track, and remove smuggled food (as defined in section 6309) from commerce.

SEC. 6402. EMPLOYEE PROTECTIONS.

Chapter X of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.), as amended by section 6209, is further amended by adding at the end the following:

"SEC. 1013. EMPLOYEE PROTECTIONS.

"(a) IN GENERAL.—No entity engaged in the manufacture, processing, packing, transporting, distribution, reception, holding, or importation of food may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee, whether at the employee's initiative or in the ordinary course of the employee's duties (or any person acting pursuant to a request of the employee)—

"(1) provided, caused to be provided, or is about to provide or cause to be provided to the employer, the Federal Government, or the attorney general of a State information relating to any violation of, or any act or omission the employee reasonably believes to be a violation of any provision of this Act or any order, rule, regulation, standard, or ban under this Act, or any order, rule, regulation, standard, or ban under this Act;

"(2) testified or is about to testify in a proceeding concerning such violation;

"(3) assisted or participated or is about to assist or participate in such a proceeding; or

"(4) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any provision of this Act, or any order, rule, regulation, standard, or ban under this Act.

"(b) PROCESS.—

"(1) IN GENERAL.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor (referred to in this section as the 'Secretary') alleging such discharge or discrimination and identifying the person responsible for such act. Upon receipt of such a complaint, the Secretary shall notify, in writing, the person named in the complaint of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).

"(2) INVESTIGATION.—

"(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the complainant and the person named in the complaint an opportunity to submit to the Secretary a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary shall initiate an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify, in writing, the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings.

"(B) REASONABLE CAUSE FOUND; PRELIMINARY ORDER.—If the Secretary concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Any such hearing shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

"(C) DISMISSAL OF COMPLAINT.—

"(i) STANDARD FOR COMPLAINANT.—The Secretary shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(ii) STANDARD FOR EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

"(iii) VIOLATION STANDARD.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(iv) RELIEF STANDARD.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer

would have taken the same unfavorable personnel action in the absence of that behavior.

"(3) FINAL ORDER.—

"(A) IN GENERAL.—Not later than 120 days after the date of conclusion of any hearing under paragraph (2), the Secretary shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

"(B) CONTENT OF ORDER.—If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation—

"(i) to take affirmative action to abate the violation;

"(ii) to reinstate the complainant to his or her former position together with compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

"(iii) to provide compensatory damages to the complainant.

"(C) PENALTY.—If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(D) BAD FAITH CLAIM.—If the Secretary finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorneys' fee, not exceeding $1,000, to be paid by the complainant.

"(4) ACTION IN COURT.—

"(A) IN GENERAL.—If the Secretary has not issued a final decision within 210 days after the filing of the complaint, or within 90 days after receiving a written determination, the complainant may bring an action at law or equity for de novo review in the appropriate district court of the United States with jurisdiction, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury. The proceedings shall be governed by the same legal burdens of proof specified in paragraph (2)(C).

"(B) RELIEF.—The court shall have jurisdiction to grant all relief necessary to make the employee whole, including injunctive relief and compensatory damages, including—

"(i) reinstatement with the same seniority status that the employee would have had, but for the discharge or discrimination;

"(ii) the amount of back pay, with interest; and

"(iii) compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorney's fees.

"(5) REVIEW.—

"(A) IN GENERAL.—Unless the complainant brings an action under paragraph (4), any person adversely affected or aggrieved by a final order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

"(B) NO JUDICIAL REVIEW.—An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

"(6) FAILURE TO COMPLY WITH ORDER.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur, or in the United States district court for the District of Columbia, to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

"(7) CIVIL ACTION TO REQUIRE COMPLIANCE.—

"(A) IN GENERAL.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

"(B) AWARD.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorneys' and expert witness fees) to any party whenever the court determines such award is appropriate.

"(c) EFFECT OF SECTION.—

"(1) OTHER LAWS.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

"(2) RIGHTS OF EMPLOYEES.—Nothing in this section shall be construed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this

section may not be waived by any agreement, policy, form, or condition of employment.

"(d) ENFORCEMENT.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

"(e) LIMITATION.—Subsection (a) shall not apply with respect to an employee of an entity engaged in the manufacture, processing, packing, transporting, distribution, reception, holding, or importation of food who, acting without direction from such entity (or such entity's agent), deliberately causes a violation of any requirement relating to any violation or alleged violation of any order, rule, regulation, standard, or ban under this Act.".

SEC. 6403. JURISDICTION; AUTHORITIES.

Nothing in this Act, or an amendment made by this Act, shall be construed to—

(1) alter the jurisdiction between the Secretary of Agriculture and the Secretary of Health and Human Services, under applicable statutes, regulations, or agreements regarding voluntary inspection of non-amenable species under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.);

(2) alter the jurisdiction between the Alcohol and Tobacco Tax and Trade Bureau and the Secretary of Health and Human Services, under applicable statutes and regulations;

(3) limit the authority of the Secretary of Health and Human Services under—

(A) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) as in effect on the day before the date of enactment of this Act; or

(B) the Public Health Service Act (42 U.S.C. 301 et seq.) as in effect on the day before the date of enactment of this Act;

(4) alter or limit the authority of the Secretary of Agriculture under the laws administered by such Secretary, including—

(A) the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(B) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.);

(C) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.);

(D) the United States Grain Standards Act (7 U.S.C. 71 et seq.);

(E) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.);

(F) the United States Warehouse Act (7 U.S.C. 241 et seq.);

(G) the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.); and

(H) the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with the amendments made by the Agricultural Marketing Agreement Act of 1937; or

(5) alter, impede, or affect the authority of the Secretary of Homeland Security under the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) or any other statute, including any authority related to securing the borders of the United States,

managing ports of entry, or agricultural import and entry inspection activities.

SEC. 6404. COMPLIANCE WITH INTERNATIONAL AGREEMENTS.

Nothing in this Act (or an amendment made by this Act) shall be construed in a manner inconsistent with the agreement establishing the World Trade Organization or any other treaty or international agreement to which the United States is a party.

SEC. 6405. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled "Budgetary Effects of PAYGO Legislation" for this Act, jointly submitted for printing in the Congressional Record by the Chairmen of the House and Senate Budget Committees, provided that such statement has been submitted prior to the vote on passage in the House acting first on this conference report or amendment between the Houses.

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