

***In the Senate of the United States,***

*August 5, 2010.*

*Resolved*, That the bill from the House of Representatives (H.R. 1586) entitled “An Act to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.”, do pass with the following

**SENATE AMENDMENT TO HOUSE AMENDMENT TO  
SENATE AMENDMENT:**

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

1

*SHORT TITLE*

2

*SECTION 1. This Act may be cited as the*

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*“\_\_\_\_\_ Act of \_\_\_\_\_”.*

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*TITLE I*

*EDUCATION JOBS FUND*

*EDUCATION JOBS FUNDS*

*SEC. 101. There are authorized to be appropriated and there are appropriated out of any money in the Treasury not otherwise obligated for necessary expenses for an Education Jobs Fund, \$10,000,000,000: Provided, That the amount under this heading shall be administered under the terms and conditions of sections 14001 through 14013 and title XV of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) except as follows:*

*(1) ALLOCATION OF FUNDS.—*

*(A) Funds appropriated under this heading shall be available only for allocation by the Secretary of Education (in this heading referred to as the Secretary) in accordance with subsections (a), (b), (d), (e), and (f) of section 14001 of division A of Public Law 111–5 and subparagraph (B) of this paragraph, except that the amount reserved under such subsection (b) shall not exceed \$1,000,000 and such subsection (f) shall be applied by substituting one year for two years.*

*(B) Prior to allocating funds to States under section 14001(d) of division A of Public Law 111–5, the Secretary shall allocate 0.5 per-*

1           *cent to the Secretary of the Interior for schools*  
2           *operated or funded by the Bureau of Indian Af-*  
3           *airs on the basis of the schools' respective needs*  
4           *for activities consistent with this heading under*  
5           *such terms and conditions as the Secretary of the*  
6           *Interior may determine.*

7           (2) *RESERVATION.*—*A State that receives an al-*  
8           *location of funds appropriated under this heading*  
9           *may reserve not more than 2 percent for the adminis-*  
10          *trative costs of carrying out its responsibilities with*  
11          *respect to those funds.*

12          (3) *AWARDS TO LOCAL EDUCATIONAL AGEN-*  
13          *CIES.*—

14                (A) *Except as specified in paragraph (2),*  
15                *an allocation of funds to a State shall be used*  
16                *only for awards to local educational agencies for*  
17                *the support of elementary and secondary edu-*  
18                *cation in accordance with paragraph (5) for the*  
19                *2010–2011 school year (or, in the case of re-*  
20                *allocations made under section 14001(f) of divi-*  
21                *sion A of Public Law 111–5, for the 2010–2011*  
22                *or the 2011–2012 school year).*

23                (B) *Funds used to support elementary and*  
24                *secondary education shall be distributed through*  
25                *a State's primary elementary and secondary*

1        *funding formulae or based on local educational*  
2        *agencies' relative shares of funds under part A of*  
3        *title I of the Elementary and Secondary Edu-*  
4        *cation Act of 1965 (20 U.S.C. 6311 et seq.) for*  
5        *the most recent fiscal year for which data are*  
6        *available.*

7                *(C) Subsections (a) and (b) of section 14002*  
8        *of division A of Public Law 111–5 shall not*  
9        *apply to funds appropriated under this heading.*

10                *(4) COMPLIANCE WITH EDUCATION REFORM AS-*  
11        *SURANCES.—For purposes of awarding funds appro-*  
12        *priated under this heading, any State that has an ap-*  
13        *proved application for Phase II of the State Fiscal*  
14        *Stabilization Fund that was submitted in accordance*  
15        *with the application notice published in the Federal*  
16        *Register on November 17, 2009 (74 Fed. Reg. 59142)*  
17        *shall be deemed to be in compliance with subsection*  
18        *(b) and paragraphs (2) through (5) of subsection (d)*  
19        *of section 14005 of division A of Public Law 111–5.*

20                *(5) REQUIREMENT TO USE FUNDS TO RETAIN OR*  
21        *CREATE EDUCATION JOBS.—Notwithstanding section*  
22        *14003(a) of division A of Public Law 111–5, funds*  
23        *awarded to local educational agencies under para-*  
24        *graph (3)—*

1           (A) may be used only for compensation and  
2           benefits and other expenses, such as support serv-  
3           ices, necessary to retain existing employees, to  
4           recall or rehire former employees, and to hire  
5           new employees, in order to provide early child-  
6           hood, elementary, or secondary educational and  
7           related services; and

8           (B) may not be used for general adminis-  
9           trative expenses or for other support services ex-  
10          penditures as those terms were defined by the  
11          National Center for Education Statistics in its  
12          Common Core of Data as of the date of enact-  
13          ment of this Act.

14          (6) *PROHIBITION ON USE OF FUNDS FOR RAINY-*  
15          *DAY FUNDS OR DEBT RETIREMENT.*—A State that re-  
16          ceives an allocation may not use such funds, directly  
17          or indirectly, to—

18               (A) establish, restore, or supplement a  
19               rainy-day fund;

20               (B) supplant State funds in a manner that  
21               has the effect of establishing, restoring, or  
22               supplementing a rainy-day fund;

23               (C) reduce or retire debt obligations in-  
24               curred by the State; or

1           (D) supplant State funds in a manner that  
2           has the effect of reducing or retiring debt obliga-  
3           tions incurred by the State.

4           (7) *DEADLINE FOR AWARD.*—The Secretary shall  
5           award funds appropriated under this heading not  
6           later than 45 days after the date of the enactment of  
7           this Act to States that have submitted applications  
8           meeting the requirements applicable to funds under  
9           this heading. The Secretary shall not require informa-  
10          tion in applications beyond what is necessary to de-  
11          termine compliance with applicable provisions of law.

12          (8) *ALTERNATE DISTRIBUTION OF FUNDS.*—If,  
13          within 30 days after the date of the enactment of this  
14          Act, a Governor has not submitted an approvable ap-  
15          plication, the Secretary shall provide for funds allo-  
16          cated to that State to be distributed to another entity  
17          or other entities in the State (notwithstanding section  
18          14001(e) of division A of Public Law 111–5) for sup-  
19          port of elementary and secondary education, under  
20          such terms and conditions as the Secretary may es-  
21          tablish, provided that all terms and conditions that  
22          apply to funds appropriated under this heading shall  
23          apply to such funds distributed to such entity or enti-  
24          ties. No distribution shall be made to a State under  
25          this paragraph, however, unless the Secretary has de-

1 *terminated (on the basis of such information as may be*  
2 *available) that the requirements of clauses (i), (ii), or*  
3 *(iii) of paragraph 10(A) are likely to be met, notwith-*  
4 *standing the lack of an application from the Governor*  
5 *of that State.*

6 (9) *LOCAL EDUCATIONAL AGENCY APPLICA-*  
7 *TION.—Section 442 of the General Education Provi-*  
8 *sions Act shall not apply to a local educational agen-*  
9 *cy that has previously submitted an application to*  
10 *the State under title XIV of division A of Public Law*  
11 *111–5. The assurances provided under that applica-*  
12 *tion shall continue to apply to funds awarded under*  
13 *this heading.*

14 (10) *MAINTENANCE OF EFFORT.—*

15 (A) *Except as provided in paragraph (8),*  
16 *the Secretary shall not allocate funds to a State*  
17 *under paragraph (1) unless the Governor of the*  
18 *State provides an assurance to the Secretary*  
19 *that—*

20 (i) *for State fiscal year 2011, the State*  
21 *will maintain State support for elementary*  
22 *and secondary education (in the aggregate*  
23 *or on the basis of expenditures per pupil)*  
24 *and for public institutions of higher edu-*  
25 *cation (not including support for capital*

1            *projects or for research and development or*  
2            *tuition and fees paid by students) at not*  
3            *less than the level of such support for each*  
4            *of the two categories, respectively, for State*  
5            *fiscal year 2009;*

6            *(ii) for State fiscal year 2011, the*  
7            *State will maintain State support for ele-*  
8            *mentary and secondary education and for*  
9            *public institutions of higher education (not*  
10           *including support for capital projects or for*  
11           *research and development or tuition and*  
12           *fees paid by students) at a percentage of the*  
13           *total revenues available to the State that is*  
14           *equal to or greater than the percentage pro-*  
15           *vided for each of the two categories, respec-*  
16           *tively, for State fiscal year 2010; or*

17           *(iii) in the case of a State in which*  
18           *State tax collections for calendar year 2009*  
19           *were less than State tax collections for cal-*  
20           *endar year 2006, for State fiscal year 2011*  
21           *the State will maintain State support for*  
22           *elementary and secondary education (in the*  
23           *aggregate) and for public institutions of*  
24           *higher education (not including support for*  
25           *capital projects or for research and develop-*



1                   *ment or tuition and fees paid by stu-*  
2                   *dents)—*

3                   *(I) at not less than the level of*  
4                   *such support for each of the two cat-*  
5                   *egories, respectively, for State fiscal*  
6                   *year 2006; or*

7                   *(II) at a percentage of the total*  
8                   *revenues available to the State that is*  
9                   *equal to or greater than the percentage*  
10                  *provided for each of the two categories,*  
11                  *respectively, for State fiscal year 2006.*

12                  *(B) Section 14005(d)(1) and subsections (a)*  
13                  *through (c) of section 14012 of division A of*  
14                  *Public Law 111–5 shall not apply to funds ap-*  
15                  *propriated under this heading.*

16                  (11) *ADDITIONAL REQUIREMENTS FOR THE*  
17                  *STATE OF TEXAS.—The following requirements shall*  
18                  *apply to the State of Texas:*

19                  (A) *Notwithstanding paragraph (3)(B),*  
20                  *funds used to support elementary and secondary*  
21                  *education shall be distributed based on local edu-*  
22                  *cational agencies' relative shares of funds under*  
23                  *part A of title I of the Elementary and Sec-*  
24                  *ondary Education Act of 1965 (20 U.S.C. 6311*  
25                  *et seq.) for the most recent fiscal year which data*

1           *are available. Funds distributed pursuant to this*  
2           *paragraph shall be used to supplement and not*  
3           *supplant State formula funding that is distrib-*  
4           *uted on a similar basis to part A of title I of the*  
5           *Elementary and Secondary Education Act of*  
6           *1965 (20 U.S.C. 6311 et seq.).*

7           *(B) The Secretary shall not allocate funds*  
8           *to the State of Texas under paragraph (1) unless*  
9           *the Governor of the State provides an assurance*  
10           *to the Secretary that the State will for fiscal*  
11           *years 2011, 2012, and 2013 maintain State sup-*  
12           *port for elementary and secondary education at*  
13           *a percentage of the total revenues available to the*  
14           *State that is equal to or greater than the per-*  
15           *centage provided for such purpose for fiscal year*  
16           *2011 prior to the enactment of this Act.*

17           *(C) Notwithstanding paragraph (8), no dis-*  
18           *tribution shall be made to the State of Texas or*  
19           *local education agencies therein unless the Gov-*  
20           *ernor of Texas makes an assurance to the Sec-*  
21           *retary that the requirements in paragraphs*  
22           *(11)(A) and (11)(B) will be met, notwith-*  
23           *standing the lack of an application from the*  
24           *Governor of Texas.*

1 *TITLE II*  
2 *STATE FISCAL RELIEF AND OTHER PROVISIONS;*  
3 *REVENUE OFFSETS*

4 *Subtitle A—State Fiscal Relief and Other Provisions*

5 *EXTENSION OF ARRA INCREASE IN FMAP*

6 *SEC. 201. Section 5001 of the American Recovery and*  
7 *Reinvestment Act of 2009 (Public Law 111–5) is amend-*  
8 *ed—*

9 *(1) in subsection (a)(3), by striking “first cal-*  
10 *endar quarter” and inserting “first 3 calendar quar-*  
11 *ters”;*

12 *(2) in subsection (b)—*

13 *(A) in paragraph (1), by striking “para-*  
14 *graph (2)” and inserting “paragraphs (2) and*  
15 *(3)”;* and

16 *(B) by adding at the end the following:*

17 *“(3) PHASE-DOWN OF GENERAL INCREASE.—*

18 *“(A) SECOND QUARTER OF FISCAL YEAR*  
19 *2011.—For each State, for the second quarter of*  
20 *fiscal year 2011, the FMAP percentage increase*  
21 *for the State under paragraph (1) or (2) (as ap-*  
22 *plicable) shall be 3.2 percentage points.*

23 *“(B) THIRD QUARTER OF FISCAL YEAR*  
24 *2011.—For each State, for the third quarter of*  
25 *fiscal year 2011, the FMAP percentage increase*

1           *for the State under paragraph (1) or (2) (as ap-*  
2           *plicable) shall be 1.2 percentage points.”;*

3           *(3) in subsection (c)—*

4                   *(A) in paragraph (2)(B), by striking “July*  
5                   *1, 2010” and inserting “January 1, 2011”;*

6                   *(B) in paragraph (3)(B)(i), by striking*  
7                   *“July 1, 2010” and inserting “January 1, 2011”*  
8                   *each place it appears; and*

9                   *(C) in paragraph (4)(C)(ii), by striking*  
10                   *“the 3-consecutive-month period beginning with*  
11                   *January 2010” and inserting “any 3-consecu-*  
12                   *tive-month period that begins after December*  
13                   *2009 and ends before January 2011”;*

14           *(4) in subsection (e), by adding at the end the*  
15           *following:*

16           *“Notwithstanding paragraph (5), effective for payments*  
17           *made on or after January 1, 2010, the increases in the*  
18           *FMAP for a State under this section shall apply to pay-*  
19           *ments under title XIX of such Act that are attributable to*  
20           *expenditures for medical assistance provided to nonpreg-*  
21           *nant childless adults made eligible under a State plan*  
22           *under such title (including under any waiver under such*  
23           *title or under section 1115 of such Act (42 U.S.C. 1315))*  
24           *who would have been eligible for child health assistance or*  
25           *other health benefits under eligibility standards in effect as*

1 of December 31, 2009, of a waiver of the State child health  
2 plan under the title XXI of such Act.”;

3 (5) in subsection (g)—

4 (A) in paragraph (1), by striking “Sep-  
5 tember 30, 2011” and inserting “March 31,  
6 2012”;

7 (B) in paragraph (2), by inserting “of such  
8 Act” after “1923”; and

9 (C) by adding at the end the following:

10 “(3) *CERTIFICATION BY CHIEF EXECUTIVE OFFI-  
11 CER.—No additional Federal funds shall be paid to a  
12 State as a result of this section with respect to a cal-  
13 endar quarter occurring during the period beginning  
14 on January 1, 2011, and ending on June 30, 2011,  
15 unless, not later than 45 days after the date of enact-  
16 ment of this paragraph, the chief executive officer of  
17 the State certifies that the State will request and use  
18 such additional Federal funds.”; and*

19 (6) in subsection (h)(3), by striking “December  
20 31, 2010” and inserting “June 30, 2011”.

21 *TREATMENT OF CERTAIN DRUGS FOR COMPUTATION OF*

22 *MEDICAID AMP*

23 *SEC. 202. Effective as if included in the enactment of*  
24 *Public Law 111–148, section 1927(k)(1)(B)(i)(IV) of the*  
25 *Social Security Act (42 U.S.C. 1396r–8(k)(1)(B)(i)(IV)), as*  
26 *amended by section 2503(a)(2)(B) of Public Law 111–148*

1 *and section 1101(c)(2) of Public Law 111–152, is amended*  
 2 *by adding at the end the following: “, unless the drug is*  
 3 *an inhalation, infusion, instilled, implanted, or injectable*  
 4 *drug that is not generally dispensed through a retail com-*  
 5 *munity pharmacy; and”.*

6 *SUNSET OF TEMPORARY INCREASE IN BENEFITS UNDER*  
 7 *THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM*

8 *SEC. 203. Section 101(a) of title I of division A of*  
 9 *Public Law 111–5 (123 Stat. 120), as amended by section*  
 10 *4262 of this Act, is amended by striking paragraph (2) and*  
 11 *inserting the following:*

12 *“(2) TERMINATION.—The authority provided by*  
 13 *this subsection shall terminate after March 31,*  
 14 *2014.”.*

15 *Subtitle B—Revenue Offsets*

16 *RULES TO PREVENT SPLITTING FOREIGN TAX CREDITS*  
 17 *FROM THE INCOME TO WHICH THEY RELATE*

18 *SEC. 211. (a) IN GENERAL.—Subpart A of part III*  
 19 *of subchapter N of chapter 1 of the Internal Revenue Code*  
 20 *of 1986 is amended by adding at the end the following new*  
 21 *section:*

22 **“SEC. 909. SUSPENSION OF TAXES AND CREDITS UNTIL RE-**  
 23 **LATED INCOME TAKEN INTO ACCOUNT.**

24 *“(a) IN GENERAL.—If there is a foreign tax credit*  
 25 *splitting event with respect to a foreign income tax paid*  
 26 *or accrued by the taxpayer, such tax shall not be taken into*

1 *account for purposes of this title before the taxable year in*  
2 *which the related income is taken into account under this*  
3 *chapter by the taxpayer.*

4       “(b) *SPECIAL RULES WITH RESPECT TO SECTION 902*  
5 *CORPORATIONS.—If there is a foreign tax credit splitting*  
6 *event with respect to a foreign income tax paid or accrued*  
7 *by a section 902 corporation, such tax shall not be taken*  
8 *into account—*

9               “(1) *for purposes of section 902 or 960, or*  
10               “(2) *for purposes of determining earnings and*  
11               *profits under section 964(a),*  
12 *before the taxable year in which the related income is taken*  
13 *into account under this chapter by such section 902 cor-*  
14 *poration or a domestic corporation which meets the owner-*  
15 *ship requirements of subsection (a) or (b) of section 902*  
16 *with respect to such section 902 corporation.*

17       “(c) *SPECIAL RULES.—For purposes of this section—*

18               “(1) *APPLICATION TO PARTNERSHIPS, ETC.—In*  
19 *the case of a partnership, subsections (a) and (b) shall*  
20 *be applied at the partner level. Except as otherwise*  
21 *provided by the Secretary, a rule similar to the rule*  
22 *of the preceding sentence shall apply in the case of*  
23 *any S corporation or trust.*

24               “(2) *TREATMENT OF FOREIGN TAXES AFTER*  
25 *SUSPENSION.—In the case of any foreign income tax*

1     *not taken into account by reason of subsection (a) or*  
2     *(b), except as otherwise provided by the Secretary,*  
3     *such tax shall be so taken into account in the taxable*  
4     *year referred to in such subsection (other than for*  
5     *purposes of section 986(a)) as a foreign income tax*  
6     *paid or accrued in such taxable year.*

7     “(d) *DEFINITIONS.—For purposes of this section—*

8             “(1) *FOREIGN TAX CREDIT SPLITTING EVENT.—*  
9     *There is a foreign tax credit splitting event with re-*  
10    *spect to a foreign income tax if the related income is*  
11    *(or will be) taken into account under this chapter by*  
12    *a covered person.*

13            “(2) *FOREIGN INCOME TAX.—The term ‘foreign*  
14    *income tax’ means any income, war profits, or excess*  
15    *profits tax paid or accrued to any foreign country or*  
16    *to any possession of the United States.*

17            “(3) *RELATED INCOME.—The term ‘related in-*  
18    *come’ means, with respect to any portion of any for-*  
19    *ign income tax, the income (or, as appropriate, earn-*  
20    *ings and profits) to which such portion of foreign in-*  
21    *come tax relates.*

22            “(4) *COVERED PERSON.—The term ‘covered per-*  
23    *son’ means, with respect to any person who pays or*  
24    *accrues a foreign income tax (hereafter in this para-*  
25    *graph referred to as the ‘payor’)—*



1           “(A) any entity in which the payor holds,  
2 directly or indirectly, at least a 10 percent own-  
3 ership interest (determined by vote or value),

4           “(B) any person which holds, directly or in-  
5 directly, at least a 10 percent ownership interest  
6 (determined by vote or value) in the payor,

7           “(C) any person which bears a relationship  
8 to the payor described in section 267(b) or  
9 707(b), and

10           “(D) any other person specified by the Sec-  
11 retary for purposes of this paragraph.

12           “(5) SECTION 902 CORPORATION.—The term ‘sec-  
13 tion 902 corporation’ means any foreign corporation  
14 with respect to which one or more domestic corpora-  
15 tions meets the ownership requirements of subsection  
16 (a) or (b) of section 902.

17           “(e) REGULATIONS.—The Secretary may issue such  
18 regulations or other guidance as is necessary or appropriate  
19 to carry out the purposes of this section, including regula-  
20 tions or other guidance which provides—

21           “(1) appropriate exceptions from the provisions  
22 of this section, and

23           “(2) for the proper application of this section  
24 with respect to hybrid instruments.”.

1           **(b) CLERICAL AMENDMENT.**—*The table of sections for*  
2 *subpart A of part III of subchapter N of chapter 1 of the*  
3 *Internal Revenue Code of 1986 is amended by adding at*  
4 *the end the following new item:*

*“Sec. 909. Suspension of taxes and credits until related income taken into account.”.*

5           **(c) EFFECTIVE DATE.**—*The amendments made by this*  
6 *section shall apply to—*

7                   (1) *foreign income taxes (as defined in section*  
8 *909(d) of the Internal Revenue Code of 1986, as*  
9 *added by this section) paid or accrued in taxable*  
10 *years beginning after December 31, 2010; and*

11                   (2) *foreign income taxes (as so defined) paid or*  
12 *accrued by a section 902 corporation (as so defined)*  
13 *in taxable years beginning on or before such date*  
14 *(and not deemed paid under section 902(a) or 960 of*  
15 *such Code on or before such date), but only for pur-*  
16 *poses of applying sections 902 and 960 with respect*  
17 *to periods after such date.*

18 *Section 909(b)(2) of the Internal Revenue Code of 1986, as*  
19 *added by this section, shall not apply to foreign income*  
20 *taxes described in paragraph (2).*

1 DENIAL OF FOREIGN TAX CREDIT WITH RESPECT TO FOR-  
 2 EIGN INCOME NOT SUBJECT TO UNITED STATES TAX-  
 3 ATION BY REASON OF COVERED ASSET ACQUISITIONS

4 SEC. 212. (a) IN GENERAL.—Section 901 of the Inter-  
 5 nal Revenue Code of 1986 is amended by redesignating sub-  
 6 section (m) as subsection (n) and by inserting after sub-  
 7 section (l) the following new subsection:

8 “(m) DENIAL OF FOREIGN TAX CREDIT WITH RE-  
 9 SPECT TO FOREIGN INCOME NOT SUBJECT TO UNITED  
 10 STATES TAXATION BY REASON OF COVERED ASSET ACQUI-  
 11 SITIONS.—

12 “(1) IN GENERAL.—In the case of a covered asset  
 13 acquisition, the disqualified portion of any foreign in-  
 14 come tax determined with respect to the income or  
 15 gain attributable to the relevant foreign assets—

16 “(A) shall not be taken into account in de-  
 17 termining the credit allowed under subsection  
 18 (a), and

19 “(B) in the case of a foreign income tax  
 20 paid by a section 902 corporation (as defined in  
 21 section 909(d)(5)), shall not be taken into ac-  
 22 count for purposes of section 902 or 960.

23 “(2) COVERED ASSET ACQUISITION.—For pur-  
 24 poses of this section, the term ‘covered asset acquisi-  
 25 tion’ means—

1           “(A) a qualified stock purchase (as defined  
2           in section 338(d)(3)) to which section 338(a) ap-  
3           plies,

4           “(B) any transaction which—

5                 “(i) is treated as an acquisition of as-  
6                 sets for purposes of this chapter, and

7                 “(ii) is treated as the acquisition of  
8                 stock of a corporation (or is disregarded) for  
9                 purposes of the foreign income taxes of the  
10                relevant jurisdiction,

11           “(C) any acquisition of an interest in a  
12           partnership which has an election in effect under  
13           section 754, and

14           “(D) to the extent provided by the Sec-  
15           retary, any other similar transaction.

16           “(3) *DISQUALIFIED PORTION.*—For purposes of  
17           this section—

18                 “(A) *IN GENERAL.*—The term ‘disqualified  
19                 portion’ means, with respect to any covered asset  
20                 acquisition, for any taxable year, the ratio (ex-  
21                 pressed as a percentage) of—

22                 “(i) the aggregate basis differences (but  
23                 not below zero) allocable to such taxable  
24                 year under subparagraph (B) with respect  
25                 to all relevant foreign assets, divided by

1           “(ii) the income on which the foreign  
2           income tax referred to in paragraph (1) is  
3           determined (or, if the taxpayer fails to sub-  
4           stantiate such income to the satisfaction of  
5           the Secretary, such income shall be deter-  
6           mined by dividing the amount of such for-  
7           eign income tax by the highest marginal tax  
8           rate applicable to such income in the rel-  
9           evant jurisdiction).

10           “(B) ALLOCATION OF BASIS DIFFERENCE.—

11           For purposes of subparagraph (A)(i)—

12           “(i) IN GENERAL.—The basis difference  
13           with respect to any relevant foreign asset  
14           shall be allocated to taxable years using the  
15           applicable cost recovery method under this  
16           chapter.

17           “(ii) SPECIAL RULE FOR DISPOSITION  
18           OF ASSETS.—Except as otherwise provided  
19           by the Secretary, in the case of the dispo-  
20           sition of any relevant foreign asset—

21           “(I) the basis difference allocated  
22           to the taxable year which includes the  
23           date of such disposition shall be the ex-  
24           cess of the basis difference with respect  
25           to such asset over the aggregate basis

1           *difference with respect to such asset*  
2           *which has been allocated under clause*  
3           *(i) to all prior taxable years, and*

4                   “(II) *no basis difference with re-*  
5                   *spect to such asset shall be allocated*  
6                   *under clause (i) to any taxable year*  
7                   *thereafter.*

8           “(C) *BASIS DIFFERENCE.—*

9                   “(i) *IN GENERAL.—The term ‘basis dif-*  
10                   *ference’ means, with respect to any relevant*  
11                   *foreign asset, the excess of—*

12                           “(I) *the adjusted basis of such*  
13                           *asset immediately after the covered*  
14                           *asset acquisition, over*

15                           “(II) *the adjusted basis of such*  
16                           *asset immediately before the covered*  
17                           *asset acquisition.*

18                   “(ii) *BUILT-IN LOSS ASSETS.—In the*  
19                   *case of a relevant foreign asset with respect*  
20                   *to which the amount described in clause*  
21                   *(i)(II) exceeds the amount described in*  
22                   *clause (i)(I), such excess shall be taken into*  
23                   *account under this subsection as a basis dif-*  
24                   *ference of a negative amount.*

1                   “(iii) *SPECIAL RULE FOR SECTION 338*  
2                   *ELECTIONS.*—*In the case of a covered asset*  
3                   *acquisition described in paragraph (2)(A),*  
4                   *the covered asset acquisition shall be treated*  
5                   *for purposes of this subparagraph as occur-*  
6                   *ring at the close of the acquisition date (as*  
7                   *defined in section 338(h)(2)).*

8                   “(4) *RELEVANT FOREIGN ASSETS.*—*For purposes*  
9                   *of this section, the term ‘relevant foreign asset’ means,*  
10                  *with respect to any covered asset acquisition, any*  
11                  *asset (including any goodwill, going concern value, or*  
12                  *other intangible) with respect to such acquisition if*  
13                  *income, deduction, gain, or loss attributable to such*  
14                  *asset is taken into account in determining the foreign*  
15                  *income tax referred to in paragraph (1).*

16                  “(5) *FOREIGN INCOME TAX.*—*For purposes of*  
17                  *this section, the term ‘foreign income tax’ means any*  
18                  *income, war profits, or excess profits tax paid or ac-*  
19                  *crued to any foreign country or to any possession of*  
20                  *the United States.*

21                  “(6) *TAXES ALLOWED AS A DEDUCTION, ETC.*—  
22                  *Sections 275 and 78 shall not apply to any tax which*  
23                  *is not allowable as a credit under subsection (a) by*  
24                  *reason of this subsection.*

1           “(7) *REGULATIONS.*—*The Secretary may issue*  
2 *such regulations or other guidance as is necessary or*  
3 *appropriate to carry out the purposes of this sub-*  
4 *section, including to exempt from the application of*  
5 *this subsection certain covered asset acquisitions, and*  
6 *relevant foreign assets with respect to which the basis*  
7 *difference is de minimis.”.*

8           **(b) EFFECTIVE DATE.**—

9           **(1) IN GENERAL.**—*Except as provided in para-*  
10 *graph (2), the amendments made by this section shall*  
11 *apply to covered asset acquisitions (as defined in sec-*  
12 *tion 901(m)(2) of the Internal Revenue Code of 1986,*  
13 *as added by this section) after December 31, 2010.*

14           **(2) TRANSITION RULE.**—*The amendments made*  
15 *by this section shall not apply to any covered asset*  
16 *acquisition (as so defined) with respect to which the*  
17 *transferor and the transferee are not related if such*  
18 *acquisition is—*

19                   **(A)** *made pursuant to a written agreement*  
20 *which was binding on January 1, 2011, and at*  
21 *all times thereafter,*

22                   **(B)** *described in a ruling request submitted*  
23 *to the Internal Revenue Service on or before July*  
24 *29, 2010, or*



1           (C) described on or before January 1, 2011,  
 2           in a public announcement or in a filing with the  
 3           Securities and Exchange Commission.

4           (3) *RELATED PERSONS*.—For purposes of this  
 5           subsection, a person shall be treated as related to an-  
 6           other person if the relationship between such persons  
 7           is described in section 267 or 707(b) of the Internal  
 8           Revenue Code of 1986.

9           *SEPARATE APPLICATION OF FOREIGN TAX CREDIT*  
 10          *LIMITATION, ETC., TO ITEMS RESOURCED UNDER TREATIES*

11          *SEC. 213. (a) IN GENERAL*.—Subsection (d) of section  
 12          904 of the Internal Revenue Code of 1986 is amended by  
 13          redesignating paragraph (6) as paragraph (7) and by in-  
 14          serting after paragraph (5) the following new paragraph:

15                 “(6) *SEPARATE APPLICATION TO ITEMS*  
 16                 *RESOURCED UNDER TREATIES*.—

17                         “(A) *IN GENERAL*.—If—

18                                 “(i) without regard to any treaty obli-  
 19                                 gation of the United States, any item of in-  
 20                                 come would be treated as derived from  
 21                                 sources within the United States,

22                                 “(ii) under a treaty obligation of the  
 23                                 United States, such item would be treated  
 24                                 as arising from sources outside the United  
 25                                 States, and

1                   “(iii) the taxpayer chooses the benefits  
2                   of such treaty obligation,  
3                   subsections (a), (b), and (c) of this section and  
4                   sections 902, 907, and 960 shall be applied sepa-  
5                   rately with respect to each such item.

6                   “(B) COORDINATION WITH OTHER PROVI-  
7                   SIONS.—This paragraph shall not apply to any  
8                   item of income to which subsection (h)(10) or  
9                   section 865(h) applies.

10                  “(C) REGULATIONS.—The Secretary may  
11                  issue such regulations or other guidance as is  
12                  necessary or appropriate to carry out the pur-  
13                  poses of this paragraph, including regulations or  
14                  other guidance which provides that related items  
15                  of income may be aggregated for purposes of this  
16                  paragraph.”.

17                  (b) EFFECTIVE DATE.—The amendments made by this  
18                  section shall apply to taxable years beginning after the date  
19                  of the enactment of this Act.

20                  LIMITATION ON THE AMOUNT OF FOREIGN TAXES DEEMED  
21                  PAID WITH RESPECT TO SECTION 956 INCLUSIONS

22                  SEC. 214. (a) IN GENERAL.—Section 960 of the Inter-  
23                  nal Revenue Code of 1986 is amended by adding at the end  
24                  the following new subsection:

25                  “(c) LIMITATION WITH RESPECT TO SECTION 956 IN-  
26                  CLUSIONS.—

1           “(1) *IN GENERAL.*—If there is included under  
2           *section 951(a)(1)(B) in the gross income of a domestic*  
3           *corporation any amount attributable to the earnings*  
4           *and profits of a foreign corporation which is a mem-*  
5           *ber of a qualified group (as defined in section 902(b))*  
6           *with respect to the domestic corporation, the amount*  
7           *of any foreign income taxes deemed to have been paid*  
8           *during the taxable year by such domestic corporation*  
9           *under section 902 by reason of subsection (a) with re-*  
10           *spect to such inclusion in gross income shall not ex-*  
11           *ceed the amount of the foreign income taxes which*  
12           *would have been deemed to have been paid during the*  
13           *taxable year by such domestic corporation if cash in*  
14           *an amount equal to the amount of such inclusion in*  
15           *gross income were distributed as a series of distribu-*  
16           *tions (determined without regard to any foreign taxes*  
17           *which would be imposed on an actual distribution)*  
18           *through the chain of ownership which begins with*  
19           *such foreign corporation and ends with such domestic*  
20           *corporation.*

21           “(2) *AUTHORITY TO PREVENT ABUSE.*—The Sec-  
22           *retary shall issue such regulations or other guidance*  
23           *as is necessary or appropriate to carry out the pur-*  
24           *poses of this subsection, including regulations or other*  
25           *guidance which prevent the inappropriate use of the*

1 *foreign corporation's foreign income taxes not deemed*  
 2 *paid by reason of paragraph (1).”.*

3 (b) *EFFECTIVE DATE.*—*The amendment made by this*  
 4 *section shall apply to acquisitions of United States property*  
 5 *(as defined in section 956(c) of the Internal Revenue Code*  
 6 *of 1986) after December 31, 2010.*

7 *SPECIAL RULE WITH RESPECT TO CERTAIN REDEMPTIONS*  
 8 *BY FOREIGN SUBSIDIARIES*

9 *SEC. 215. (a) IN GENERAL.*—*Paragraph (5) of section*  
 10 *304(b) of the Internal Revenue Code of 1986 is amended*  
 11 *by redesignating subparagraph (B) as subparagraph (C)*  
 12 *and by inserting after subparagraph (A) the following new*  
 13 *subparagraph:*

14 *“(B) SPECIAL RULE IN CASE OF FOREIGN*  
 15 *ACQUIRING CORPORATION.*—*In the case of any*  
 16 *acquisition to which subsection (a) applies in*  
 17 *which the acquiring corporation is a foreign cor-*  
 18 *poration, no earnings and profits shall be taken*  
 19 *into account under paragraph (2)(A) (and sub-*  
 20 *paragraph (A) shall not apply) if more than 50*  
 21 *percent of the dividends arising from such acqui-*  
 22 *sition (determined without regard to this sub-*  
 23 *paragraph) would neither—*

24 *“(i) be subject to tax under this chap-*  
 25 *ter for the taxable year in which the divi-*  
 26 *dends arise, nor*

1                   “(i) be includible in the earnings and  
 2                   profits of a controlled foreign corporation  
 3                   (as defined in section 957 and without re-  
 4                   gard to section 953(c)).”.

5           (b) *EFFECTIVE DATE.*—The amendments made by this  
 6 section shall apply to acquisitions after the date of the en-  
 7 actment of this Act.

8           *MODIFICATION OF AFFILIATION RULES FOR PURPOSES OF*  
 9                               *RULES ALLOCATING INTEREST EXPENSE*

10          *SEC. 216. (a) IN GENERAL.*—Subparagraph (A) of sec-  
 11 tion 864(e)(5) of the Internal Revenue Code of 1986 is  
 12 amended by adding at the end the following: “Notwith-  
 13 standing the preceding sentence, a foreign corporation shall  
 14 be treated as a member of the affiliated group if—

15                               “(i) more than 50 percent of the gross  
 16                               income of such foreign corporation for the  
 17                               taxable year is effectively connected with the  
 18                               conduct of a trade or business within the  
 19                               United States, and

20                               “(ii) at least 80 percent of either the  
 21                               vote or value of all outstanding stock of such  
 22                               foreign corporation is owned directly or in-  
 23                               directly by members of the affiliated group  
 24                               (determined with regard to this sentence).”.

1           (b) *EFFECTIVE DATE.*—*The amendment made by this*  
 2 *section shall apply to taxable years beginning after the date*  
 3 *of the enactment of this Act.*

4 *TERMINATION OF SPECIAL RULES FOR INTEREST AND DIVI-*  
 5 *DENDS RECEIVED FROM PERSONS MEETING THE 80-*  
 6 *PERCENT FOREIGN BUSINESS REQUIREMENTS*

7           *SEC. 217. (a) IN GENERAL.*—*Paragraph (1) of section*  
 8 *861(a) of the Internal Revenue Code of 1986 is amended*  
 9 *by striking subparagraph (A) and by redesignating sub-*  
 10 *paragraphs (B) and (C) as subparagraphs (A) and (B), re-*  
 11 *spectively.*

12           (b) *GRANDFATHER RULE WITH RESPECT TO WITH-*  
 13 *HOLDING ON INTEREST AND DIVIDENDS RECEIVED FROM*  
 14 *PERSONS MEETING THE 80-PERCENT FOREIGN BUSINESS*  
 15 *REQUIREMENTS.*—

16           (1) *IN GENERAL.*—*Subparagraph (B) of section*  
 17 *871(i)(2) of the Internal Revenue Code of 1986 is*  
 18 *amended to read as follows:*

19                   “(B) *The active foreign business percentage*  
 20                   *of—*

21                           “(i) *any dividend paid by an existing*  
 22                           *80/20 company, and*

23                           “(ii) *any interest paid by an existing*  
 24                           *80/20 company.*”.

25           (2) *DEFINITIONS AND SPECIAL RULES.*—*Section*  
 26 *871 of such Code is amended by redesignating sub-*

1       sections (l) and (m) as subsections (m) and (n), re-  
2       spectively, and by inserting after subsection (k) the  
3       following new subsection:

4       “(l) *RULES RELATING TO EXISTING 80/20 COMPA-*  
5       *NIES.—For purposes of this subsection and subsection*  
6       *(i)(2)(B)—*

7               “(1) *EXISTING 80/20 COMPANY.—*

8                       “(A) *IN GENERAL.—The term ‘existing 80/*  
9                       *20 company’ means any corporation if—*

10                               “(i) *such corporation met the 80-per-*  
11                               *cent foreign business requirements of section*  
12                               *861(c)(1) (as in effect before the date of the*  
13                               *enactment of this subsection) for such cor-*  
14                               *poration’s last taxable year beginning before*  
15                               *January 1, 2011,*

16                               “(ii) *such corporation meets the 80-*  
17                               *percent foreign business requirements of*  
18                               *subparagraph (B) with respect to each tax-*  
19                               *able year after the taxable year referred to*  
20                               *in clause (i), and*

21                               “(iii) *there has not been an addition of*  
22                               *a substantial line of business with respect to*  
23                               *such corporation after the date of the enact-*  
24                               *ment of this subsection.*

25                       “(B) *FOREIGN BUSINESS REQUIREMENTS.—*

1           “(i) *IN GENERAL.*—*Except as provided*  
2           *in clause (iv), a corporation meets the 80-*  
3           *percent foreign business requirements of this*  
4           *subparagraph if it is shown to the satisfac-*  
5           *tion of the Secretary that at least 80 per-*  
6           *cent of the gross income from all sources of*  
7           *such corporation for the testing period is*  
8           *active foreign business income.*

9           “(ii) *ACTIVE FOREIGN BUSINESS IN-*  
10           *COME.*—*For purposes of clause (i), the term*  
11           *‘active foreign business income’ means gross*  
12           *income which—*

13                   “(I) *is derived from sources out-*  
14                   *side the United States (as determined*  
15                   *under this subchapter), and*

16                   “(II) *is attributable to the active*  
17                   *conduct of a trade or business in a for-*  
18                   *ign country or possession of the*  
19                   *United States.*

20           “(iii) *TESTING PERIOD.*—*For purposes*  
21           *of this subsection, the term ‘testing period’*  
22           *means the 3-year period ending with the*  
23           *close of the taxable year of the corporation*  
24           *preceding the payment (or such part of such*  
25           *period as may be applicable). If the cor-*



1            *poration has no gross income for such 3-*  
2            *year period (or part thereof), the testing pe-*  
3            *riod shall be the taxable year in which the*  
4            *payment is made.*

5            *“(iv) TRANSITION RULE.—In the case*  
6            *of a taxable year for which the testing pe-*  
7            *riod includes 1 or more taxable years begin-*  
8            *ning before January 1, 2011—*

9            *“(I) a corporation meets the 80-*  
10           *percent foreign business requirements*  
11           *of this subparagraph if and only if the*  
12           *weighted average of—*

13           *“(aa) the percentage of the*  
14           *corporation’s gross income from*  
15           *all sources that is active foreign*  
16           *business income (as defined in*  
17           *subparagraph (B) of section*  
18           *861(c)(1) (as in effect before the*  
19           *date of the enactment of this sub-*  
20           *section)) for the portion of the*  
21           *testing period that includes tax-*  
22           *able years beginning before Janu-*  
23           *ary 1, 2011, and*

24           *“(bb) the percentage of the*  
25           *corporation’s gross income from*

1           *all sources that is active foreign*  
 2           *business income (as defined in*  
 3           *clause (i) of this subparagraph)*  
 4           *for the portion of the testing pe-*  
 5           *riod, if any, that includes taxable*  
 6           *years beginning on or after Janu-*  
 7           *ary 1, 2011,*

8           *is at least 80 percent, and*

9           “(II) *the active foreign business*  
 10           *percentage for such taxable year shall*  
 11           *equal the weighted average percentage*  
 12           *determined under subclause (I).*

13           “(2) *ACTIVE FOREIGN BUSINESS PERCENTAGE.—*  
 14           *Except as provided in paragraph (1)(B)(iv), the term*  
 15           *‘active foreign business percentage’ means, with re-*  
 16           *spect to any existing 80/20 company, the percentage*  
 17           *which—*

18           “(A) *the active foreign business income of*  
 19           *such company for the testing period, is of*

20           “(B) *the gross income of such company for*  
 21           *the testing period from all sources.*

22           “(3) *AGGREGATION RULES.—For purposes of ap-*  
 23           *plying paragraph (1) (other than subparagraphs*  
 24           *(A)(i) and (B)(iv) thereof) and paragraph (2)—*

1           “(A) *IN GENERAL.*—*The corporation re-*  
2           *ferred to in paragraph (1)(A) and all of such*  
3           *corporation’s subsidiaries shall be treated as one*  
4           *corporation.*

5           “(B) *SUBSIDIARIES.*—*For purposes of sub-*  
6           *paragraph (A), the term ‘subsidiary’ means any*  
7           *corporation in which the corporation referred to*  
8           *in subparagraph (A) owns (directly or indi-*  
9           *rectly) stock meeting the requirements of section*  
10           *1504(a)(2) (determined by substituting ‘50 per-*  
11           *cent’ for ‘80 percent’ each place it appears and*  
12           *without regard to section 1504(b)(3)).*

13           “(4) *REGULATIONS.*—*The Secretary may issue*  
14           *such regulations or other guidance as is necessary or*  
15           *appropriate to carry out the purposes of this section,*  
16           *including regulations or other guidance which provide*  
17           *for the proper application of the aggregation rules de-*  
18           *scribed in paragraph (3).”.*

19           (c) *CONFORMING AMENDMENTS.*—

20           (1) *Section 861 of the Internal Revenue Code of*  
21           *1986 is amended by striking subsection (c) and by re-*  
22           *designating subsections (d), (e), and (f) as subsections*  
23           *(c), (d), and (e), respectively.*

24           (2) *Paragraph (9) of section 904(h) of such Code*  
25           *is amended to read as follows:*

1           “(9) *TREATMENT OF CERTAIN DOMESTIC COR-*  
2           *PORATIONS.—In the case of any dividend treated as*  
3           *not from sources within the United States under sec-*  
4           *tion 861(a)(2)(A), the corporation paying such divi-*  
5           *dend shall be treated for purposes of this subsection*  
6           *as a United States-owned foreign corporation.”.*

7           (3) *Subsection (c) of section 2104 of such Code*  
8           *is amended in the last sentence by striking “or to a*  
9           *debt obligation of a domestic corporation” and all*  
10           *that follows and inserting a period.*

11           (d) *EFFECTIVE DATE.—*

12           (1) *IN GENERAL.—Except as provided in para-*  
13           *graph (2), the amendments made by this section shall*  
14           *apply to taxable years beginning after December 31,*  
15           *2010.*

16           (2) *GRANDFATHER RULE FOR OUTSTANDING*  
17           *DEBT OBLIGATIONS.—*

18           (A) *IN GENERAL.—The amendments made*  
19           *by this section shall not apply to payments of*  
20           *interest on obligations issued before the date of*  
21           *the enactment of this Act.*

22           (B) *EXCEPTION FOR RELATED PARTY*  
23           *DEBT.—Subparagraph (A) shall not apply to*  
24           *any interest which is payable to a related person*

1           *(determined under rules similar to the rules of*  
2           *section 954(d)(3)).*

3           (C) *SIGNIFICANT MODIFICATIONS TREATED*  
4           *AS NEW ISSUES.—For purposes of subparagraph*  
5           *(A), a significant modification of the terms of*  
6           *any obligation (including any extension of the*  
7           *term of such obligation) shall be treated as a new*  
8           *issue.*

9 *LIMITATION ON EXTENSION OF STATUTE OF LIMITATIONS*  
10 *FOR FAILURE TO NOTIFY SECRETARY OF CERTAIN*  
11 *FOREIGN TRANSFERS*

12 *SEC. 218. (a) IN GENERAL.—Paragraph (8) of section*  
13 *6501(c) of the Internal Revenue Code of 1986 is amended—*

14           *(1) by striking “In the case of any information”*  
15           *and inserting the following:*

16                   *“(A) IN GENERAL.—In the case of any in-*  
17                   *formation”; and*

18           *(2) by adding at the end the following:*

19                   *“(B) APPLICATION TO FAILURES DUE TO*  
20                   *REASONABLE CAUSE.—If the failure to furnish*  
21                   *the information referred to in subparagraph (A)*  
22                   *is due to reasonable cause and not willful ne-*  
23                   *glect, subparagraph (A) shall apply only to the*  
24                   *item or items related to such failure.”.*

1 (b) *EFFECTIVE DATE*.—The amendments made by this  
2 section shall take effect as if included in section 513 of the  
3 *Hiring Incentives to Restore Employment Act*.

4 *ELIMINATION OF ADVANCE REFUNDABILITY OF EARNED*  
5 *INCOME CREDIT*

6 *SEC. 219. (a) IN GENERAL*.—The following provisions  
7 of the *Internal Revenue Code of 1986* are repealed:

8 (1) *Section 3507*.

9 (2) *Subsection (g) of section 32*.

10 (3) *Paragraph (7) of section 6051(a)*.

11 (b) *CONFORMING AMENDMENTS*.—

12 (1) *Section 6012(a) of the Internal Revenue Code*  
13 *of 1986 is amended by striking paragraph (8) and by*  
14 *redesignating paragraph (9) as paragraph (8)*.

15 (2) *Section 6302 of such Code is amended by*  
16 *striking subsection (i)*.

17 (3) *The table of sections for chapter 25 of such*  
18 *Code is amended by striking the item relating to sec-*  
19 *tion 3507*.

20 (c) *EFFECTIVE DATE*.—The repeals and amendments  
21 made by this section shall apply to taxable years beginning  
22 after December 31, 2010.

23 *TITLE III*

24 *RESCISSIONS*

25 *SEC. 301. There is rescinded from accounts under the*  
26 *heading “Department of Agriculture—Rural Development”*,

1 \$122,000,000, to be derived from the unobligated balances  
2 of funds that were provided for such accounts in prior ap-  
3 propriation Acts (other than Public Law 111–5) and that  
4 were designated by the Congress in such Acts as an emer-  
5 gency requirement pursuant to a concurrent resolution on  
6 the budget or the Balanced Budget and Emergency Deficit  
7 Control Act of 1985.

8       *SEC. 302. Of the funds made available for “Depart-*  
9 *ment of Commerce—National Telecommunications and In-*  
10 *formation Administration—Broadband Technology Oppor-*  
11 *tunities Program” in title II of division A of Public Law*  
12 *111–5, \$302,000,000 are rescinded.*

13       *SEC. 303. Of the funds appropriated in Department*  
14 *of Defense Appropriations Acts, the following funds are re-*  
15 *scinded from the following accounts in the specified*  
16 *amounts:*

17             *“Aircraft Procurement, Army, 2008/2010”,*  
18             *\$21,000,000;*

19             *“Procurement of Weapons and Tracked Combat*  
20 *Vehicles, Army, 2008/2010”, \$21,000,000;*

21             *“Procurement of Ammunition, Army, 2008/*  
22 *2010”, \$17,000,000;*

23             *“Other Procurement, Army, 2008/2010”,*  
24             *\$75,000,000;*

1           *“Weapons Procurement, Navy, 2008/2010”,*  
2           \$26,000,000;

3           *“Other Procurement, Navy, 2008/2010”,*  
4           \$42,000,000;

5           *“Procurement, Marine Corps, 2008/2010”,*  
6           \$13,000,000;

7           *“Aircraft Procurement, Air Force, 2008/2010”,*  
8           \$102,000,000;

9           *“Missile Procurement, Air Force, 2008/2010”,*  
10          \$28,000,000;

11          *“Procurement of Ammunition, Air Force, 2008/*  
12          *2010”, \$7,000,000;*

13          *“Other Procurement, Air Force, 2008/2010”,*  
14          \$130,000,000;

15          *“Procurement, Defense-Wide, 2008/2010”,*  
16          \$33,000,000;

17          *“Research, Development, Test and Evaluation,*  
18          *Army, 2009/2010”, \$76,000,000;*

19          *“Research, Development, Test and Evaluation,*  
20          *Air Force, 2009/2010”, \$164,000,000;*

21          *“Research, Development, Test and Evaluation,*  
22          *Defense-Wide, 2009/2010”, \$137,000,000;*

23          *“Operation, Test and Evaluation, Defense, 2009/*  
24          *2010”, \$1,000,000;*



1           *“Operation and Maintenance, Army, 2010”,*  
2           \$154,000,000;

3           *“Operation and Maintenance, Navy, 2010”,*  
4           \$155,000,000;

5           *“Operation and Maintenance, Marine Corps,*  
6           *2010”, \$25,000,000;*

7           *“Operation and Maintenance, Air Force, 2010”,*  
8           \$155,000,000;

9           *“Operation and Maintenance, Defense-Wide,*  
10          *2010”, \$126,000,000;*

11          *“Operation and Maintenance, Army Reserve,*  
12          *2010”, \$12,000,000;*

13          *“Operation and Maintenance, Navy Reserve,*  
14          *2010”, \$6,000,000;*

15          *“Operation and Maintenance, Marine Corps Re-*  
16          *serve, 2010”, \$1,000,000;*

17          *“Operation and Maintenance, Air Force Reserve,*  
18          *2010”, \$14,000,000;*

19          *“Operation and Maintenance, Army National*  
20          *Guard, 2010”, \$28,000,000; and*

21          *“Operation and Maintenance, Air National*  
22          *Guard, 2010”, \$27,000,000.*

23          *SEC. 304. (a) Of the funds appropriated in the Amer-*  
24          *ican Recovery and Reinvestment Act of 2009 (Public Law*

1 111–5), the following funds are rescinded from the following  
2 accounts in the specified amounts:

3           “Operation and Maintenance, Army, 2009/  
4 2010”, \$113,500,000;

5           “Operation and Maintenance, Navy, 2009/2010”,  
6 \$34,000,000;

7           “Operation and Maintenance, Marine Corps,  
8 2009/2010”, \$7,000,000;

9           “Operation and Maintenance, Air Force, 2009/  
10 2010”, \$61,000,000;

11           “Operation and Maintenance, Army Reserve,  
12 2009/2010”, \$3,500,000;

13           “Operation and Maintenance, Navy Reserve,  
14 2009/2010”, \$8,000,000;

15           “Operation and Maintenance, Marine Corps Re-  
16 serve, 2009/2010”, \$1,000,000;

17           “Operation and Maintenance, Air Force Reserve,  
18 2009/2010”, \$2,000,000;

19           “Operation and Maintenance, Army National  
20 Guard, 2009/2010”, \$1,000,000;

21           “Operation and Maintenance, Air National  
22 Guard, 2009/2010”, \$2,500,000; and

23           “Defense Health Program, 2009/2010”,  
24 \$27,000,000.

1           (b) *Of the funds appropriated in the Supplemental Ap-*  
2 *propriations Act, 2008 (Public Law 110–252), the following*  
3 *funds are rescinded from the following account in the speci-*  
4 *fied amount:*

5                   *“Procurement, Marine Corps, 2009/2011”,*  
6           *\$122,000,000.*

7           *SEC. 305. (a) Of the funds appropriated for “Procure-*  
8 *ment of Weapons and Tracked Combat Vehicles, Army” in*  
9 *title III of division A of public Law 111–118, \$116,000,000*  
10 *are rescinded.*

11           (b) *Of the funds appropriated for “Other Procurement,*  
12 *Army” in title III of division C of Public Law 110–329,*  
13 *\$87,000,000 are rescinded.*

14           *SEC. 306. There are rescinded the following amounts*  
15 *from the specified accounts:*

16                   (1) *\$20,000,000, to be derived from unobligated*  
17 *balances of funds made available in prior appropria-*  
18 *tions Acts under the heading “Department of En-*  
19 *ergy—Nuclear Energy”.*

20           *SEC. 307. Of the unobligated balances of funds pro-*  
21 *vided under the heading “Nuclear Regulatory Commission”*  
22 *in prior appropriations Acts, \$18,000,000 is permanently*  
23 *rescinded.*

24           *SEC. 308. Of the funds made available for “Depart-*  
25 *ment of Energy—Title 17—Innovative Technology Loan*

1 *Guarantee Program” in title III of division A of Public*  
2 *Law 111–5, \$1,500,000,000 are rescinded.*

3 *SEC. 309. There are permanently rescinded from “Gen-*  
4 *eral Services Administration—Real Property Activities—*  
5 *Federal Building Fund”, \$75,000,000 from Rental of Space*  
6 *and \$25,000,000 from Building Operations, to be derived*  
7 *from unobligated balances that were provided in previous*  
8 *appropriations Acts.*

9 *SEC. 310. Of the funds made available for “Bureau*  
10 *of Indian Affairs—Indian Guaranteed Loan Program Ac-*  
11 *count” in title VII of division A of Public Law 111–5,*  
12 *\$6,820,000 are rescinded.*

13 *SEC. 311. Of the funds made available for “Environ-*  
14 *mental Protection Agency—Hazardous Substance Super-*  
15 *fund” in title VII of division A of Public Law 111–5,*  
16 *\$2,600,000 are rescinded.*

17 *SEC. 312. Of the funds made available for “Environ-*  
18 *mental Protection Agency—Leaking Underground Storage*  
19 *Tank Trust Fund Program” in title VII of division A of*  
20 *Public Law 111–5, \$9,200,000 are rescinded.*

21 *SEC. 313. Of the funds made available for transfer in*  
22 *title VII of division A of Public Law 111–5, “Environ-*  
23 *mental Protection Agency—Environmental Programs and*  
24 *Management”, \$10,000,000 are rescinded.*

1        *SEC. 314. Of the funds made available for “National*  
2 *Park Service—Construction” in chapter 7 of division B of*  
3 *Public Law 108–324, \$4,800,000 are rescinded.*

4        *SEC. 315. Of the funds made available for “National*  
5 *Park Service—Construction” in chapter 5 of title II of Pub-*  
6 *lic Law 109–234, \$6,400,000 are rescinded.*

7        *SEC. 316. Of the funds made available for “Fish and*  
8 *Wildlife Service—Construction” in chapter 6 of title I of*  
9 *division B of Public Law 110–329, \$3,000,000 are re-*  
10 *scinded.*

11        *SEC. 317. The unobligated balance of funds appro-*  
12 *priated in the Departments of Labor, Health and Human*  
13 *Services, and Education, and Related Agencies Appropria-*  
14 *tions Act, 1995 (Public Law 103–333; 108 Stat. 2574)*  
15 *under the heading “Public Health and Social Services*  
16 *Emergency Fund” is rescinded.*

17        *SEC. 318. Of the funds appropriated for the Commis-*  
18 *sioner of Social Security under section 2201(e)(2)(B) in*  
19 *title II of division B of Public Law 111–5, \$47,000,000 are*  
20 *rescinded.*

21        *SEC. 319. Of the funds appropriated in part VI of sub-*  
22 *title I of title II of division B of Public Law 111–5,*  
23 *\$110,000,000 are rescinded, to be derived only from the*  
24 *amount provided under section 1899K(b) of such title.*

1        *SEC. 320. Of the funds appropriated for “Department*  
2 *of Education—Education for the Disadvantaged” in divi-*  
3 *sion D of Public Law 111–117, \$50,000,000 are rescinded,*  
4 *to be derived only from the amount provided for a com-*  
5 *prehensive literacy development and education program*  
6 *under section 1502 of the Elementary and Secondary Edu-*  
7 *cation Act of 1965.*

8        *SEC. 321. Of the funds appropriated for “Department*  
9 *of Education—Student Aid Administration” in division D*  
10 *of Public Law 111–117, \$82,000,000 are rescinded.*

11        *SEC. 322. Of the funds appropriated for “Department*  
12 *of Education—Innovation and Improvement” in division*  
13 *D of Public Law 111–117, \$10,700,000 are rescinded, to*  
14 *be derived only from the amount provided to carry out sub-*  
15 *part 8 of part D of title V of the Elementary and Secondary*  
16 *Education Act of 1965.*

17        *SEC. 323. Of the unobligated balances available under*  
18 *“Department of Defense, Military Construction, Army”*  
19 *from prior appropriations Acts, \$340,000,000 is rescinded:*  
20 *Provided, That no funds may be rescinded from amounts*  
21 *that were designated by the Congress as an emergency re-*  
22 *quirement or as appropriations for overseas deployments*  
23 *and other activities pursuant to a concurrent resolution on*  
24 *the budget or the Balanced Budget and Emergency Deficit*  
25 *Control Act of 1985.*

1        *SEC. 324. Of the unobligated balances available under*  
2 *“Department of Defense, Military Construction, Navy and*  
3 *Marine Corps” from prior appropriations Acts,*  
4 *\$110,000,000 is rescinded: Provided, That no funds may*  
5 *be rescinded from amounts that were designated by the Con-*  
6 *gress as an emergency requirement or as appropriations for*  
7 *overseas deployments and other activities pursuant to a*  
8 *concurrent resolution on the budget or the Balanced Budget*  
9 *and Emergency Deficit Control Act of 1985.*

10        *SEC. 325. Of the unobligated balances available under*  
11 *“Department of Defense, Military Construction, Air Force”*  
12 *from prior appropriations Acts, \$50,000,000 is rescinded:*  
13 *Provided, That no funds may be rescinded from amounts*  
14 *that were designated by the Congress as an emergency re-*  
15 *quirement or as appropriations for overseas deployments*  
16 *and other activities pursuant to a concurrent resolution on*  
17 *the budget or the Balanced Budget and Emergency Deficit*  
18 *Control Act of 1985.*

19        *SEC. 326. Of the funds made available for the General*  
20 *Operating Expenses account of the Department of Veterans*  
21 *Affairs in section 2201(e)(4)(A)(ii) of division B of Public*  
22 *Law 111–5 (123 Stat. 454; 26 U.S.C. 6428 note),*  
23 *\$6,100,000 are rescinded.*

24        *SEC. 327. Of the amount appropriated or otherwise*  
25 *made available by title X of division A of Public Law 111–*

1 5, the American Recovery and Reinvestment Act of 2009,  
2 under the heading “ Departmental Administration, Infor-  
3 mation Technology Systems” \$5,000,000 is hereby re-  
4 scinded.

5 SEC. 328. (a) MILLENNIUM CHALLENGE CORPORA-  
6 TION.—Of the unobligated balances available under the  
7 heading “Millennium Challenge Corporation” in title III  
8 of division H of Public Law 111–8 and under such heading  
9 in prior Acts making appropriations for the Department  
10 of State, foreign operations, and related programs,  
11 \$50,000,000 are rescinded.

12 (b) CIVILIAN STABILIZATION INITIATIVE.—

13 (1) DEPARTMENT OF STATE.—Of the unobligated  
14 balances available under the heading “Department of  
15 State—Administration of Foreign Affairs—Civilian  
16 Stabilization Initiative” in prior Acts making appro-  
17 priations for the Department of State, foreign oper-  
18 ations, and related programs, \$40,000,000 are re-  
19 scinded.

20 (2) UNITED STATES AGENCY FOR INTERNATIONAL  
21 DEVELOPMENT.—Of the unobligated balances avail-  
22 able under the heading “United States Agency for  
23 International Development—Funds Appropriated to  
24 the President—Civilian Stabilization Initiative” in  
25 prior Acts making appropriations for the Department



1       of State, foreign operations, and related programs,  
2       \$30,000,000 are rescinded.

3       SEC. 329. There are rescinded the following amounts  
4 from the specified accounts:

5           (1) “Department of Transportation—Federal  
6       Aviation Administration—Facilities and Equip-  
7       ment”, \$2,182,544, to be derived from unobligated  
8       balances made available under this heading in Public  
9       Law 108–324.

10          (2) “Department of Transportation—Federal  
11       Aviation Administration—Facilities and Equip-  
12       ment”, \$5,705,750, to be derived from unobligated  
13       balances made available under this heading in Public  
14       Law 109–148.

15       SEC. 330. Of the unobligated balances of funds appor-  
16 tioned to each State under chapter 1 of title 23, United  
17 States Code, \$2,200,000,000 are permanently rescinded:  
18 Provided, That such rescission shall be distributed among  
19 the States in the same proportion as the funds subject to  
20 such rescission were apportioned to the States for fiscal year  
21 2009: Provided further, That such rescission shall not apply  
22 to the funds distributed in accordance with sections 130(f)  
23 and 104(b)(5) of title 23, United States Code; sections  
24 133(d)(1) and 163 of such title, as in effect on the day before  
25 the date of enactment of Public Law 109–59; and the first

1 *sentence of section 133(d)(3)(A) of such title: Provided fur-*  
2 *ther, That notwithstanding section 1132 of Public Law*  
3 *110–140, in administering the rescission required under*  
4 *this heading, the Secretary of Transportation shall allow*  
5 *each State to determine the amount of the required rescis-*  
6 *sion to be drawn from the programs to which the rescission*  
7 *applies.*

8 *TITLE IV*

9 *BUDGETARY PROVISIONS*

10 *BUDGETARY PROVISIONS*

11 *SEC. 401. The budgetary effects of this Act, for the pur-*  
12 *pose of complying with the Statutory Pay-As-You-Go Act*  
13 *of 2010, shall be determined by reference to the latest state-*  
14 *ment titled “Budgetary Effects of PAYGO Legislation” for*  
15 *this Act, jointly submitted for printing in the Congressional*  
16 *Record by the Chairmen of the House and Senate Budget*  
17 *Committees, provided that such statement has been sub-*  
18 *mited prior to the vote on passage in the House acting*  
19 *first on this conference report or amendment between the*  
20 *Houses.*

Attest:

*Secretary.*



# **H.R. 1586**

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**SENATE AMENDMENT TO  
HOUSE AMENDMENT TO  
SENATE AMENDMENT**