

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—111th Cong., 2d Sess.

(no.) _____

(title) _____

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by ^{MRS} MURRAY, ^{MR.} HARKIN
MR REID AND MR SCHUMER

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the

5 "_____ Act of _____".

6 TITLE I

7 EDUCATION JOBS FUND

8 EDUCATION JOBS FUNDS

9 SEC. 101. There are authorized to be appropriated
10 and there are appropriated out of any money in the Treas-
11 ury not otherwise obligated for necessary expenses for an
12 Education Jobs Fund, \$10,000,000,000: *Provided*, That
13 the amount under this heading shall be administered

1 under the terms and conditions of sections 14001 through
2 14013 and title XV of division A of the American Recov-
3 ery and Reinvestment Act of 2009 (Public Law 111-5)
4 except as follows:

5 (1) ALLOCATION OF FUNDS.—

6 (A) Funds appropriated under this heading
7 shall be available only for allocation by the Sec-
8 retary of Education (in this heading referred to
9 as the Secretary) in accordance with sub-
10 sections (a), (b), (d), (e), and (f) of section
11 14001 of division A of Public Law 111-5 and
12 subparagraph (B) of this paragraph, except
13 that the amount reserved under such subsection
14 (b) shall not exceed \$1,000,000 and such sub-
15 section (f) shall be applied by substituting one
16 year for two years.

17 (B) Prior to allocating funds to States
18 under section 14001(d) of division A of Public
19 Law 111-5, the Secretary shall allocate 0.5
20 percent to the Secretary of the Interior for
21 schools operated or funded by the Bureau of In-
22 dian Affairs on the basis of the schools' respec-
23 tive needs for activities consistent with this
24 heading under such terms and conditions as the
25 Secretary of the Interior may determine.

1 (2) RESERVATION.—A State that receives an
2 allocation of funds appropriated under this heading
3 may reserve not more than 2 percent for the admin-
4 istrative costs of carrying out its responsibilities with
5 respect to those funds.

6 (3) AWARDS TO LOCAL EDUCATIONAL AGEN-
7 CIES.—

8 (A) Except as specified in paragraph (2),
9 an allocation of funds to a State shall be used
10 only for awards to local educational agencies for
11 the support of elementary and secondary edu-
12 cation in accordance with paragraph (5) for the
13 2010–2011 school year (or, in the case of re-
14 allocations made under section 14001(f) of divi-
15 sion A of Public Law 111–5, for the 2010–
16 2011 or the 2011–2012 school year).

17 (B) Funds used to support elementary and
18 secondary education shall be distributed
19 through a State’s primary elementary and sec-
20 ondary funding formulae or based on local edu-
21 cational agencies’ relative shares of funds under
22 part A of title I of the Elementary and Sec-
23 ondary Education Act of 1965 (20 U.S.C. 6311
24 et seq.) for the most recent fiscal year for which
25 data are available.

1 (C) Subsections (a) and (b) of section
2 14002 of division A of Public Law 111-5 shall
3 not apply to funds appropriated under this
4 heading.

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

16 (5) REQUIREMENT TO USE FUNDS TO RETAIN
17 OR CREATE EDUCATION JOBS.—Notwithstanding
18 section 14003(a) of division A of Public Law 111-
19 5, funds awarded to local educational agencies under
20 paragraph (3)—

21 (A) may be used only for compensation
22 and benefits and other expenses, such as sup-
23 port services, necessary to retain existing em-
24 ployees, to recall or rehire former employees,
25 and to hire new employees, in order to provide

1 early childhood, elementary, or secondary edu-
2 cational and related services; and

3 (B) may not be used for general adminis-
4 trative expenses or for other support services
5 expenditures as those terms were defined by the
6 National Center for Education Statistics in its
7 Common Core of Data as of the date of enact-
8 ment of this Act.

9 (6) PROHIBITION ON USE OF FUNDS FOR
10 RAINY-DAY FUNDS OR DEBT RETIREMENT.—A State
11 that receives an allocation may not use such funds,
12 directly or indirectly, to—

13 (A) establish, restore, or supplement a
14 rainy-day fund;

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

18 (C) reduce or retire debt obligations in-
19 curred by the State; or

20 (D) supplant State funds in a manner that
21 has the effect of reducing or retiring debt obli-
22 gations incurred by the State.

23 (7) DEADLINE FOR AWARD.—The Secretary
24 shall award funds appropriated under this heading
25 not later than 45 days after the date of the enact-

1 ment of this Act to States that have submitted ap-
2 plications meeting the requirements applicable to
3 funds under this heading. The Secretary shall not
4 require information in applications beyond what is
5 necessary to determine compliance with applicable
6 provisions of law.

7 (8) ALTERNATE DISTRIBUTION OF FUNDS.—If,
8 within 30 days after the date of the enactment of
9 this Act, a Governor has not submitted an approv-
10 able application, the Secretary shall provide for
11 funds allocated to that State to be distributed to an-
12 other entity or other entities in the State (notwith-
13 standing section 14001(e) of division A of Public
14 Law 111-5) for support of elementary and sec-
15 ondary education, under such terms and conditions
16 as the Secretary may establish, provided that all
17 terms and conditions that apply to funds appro-
18 priated under this heading shall apply to such funds
19 distributed to such entity or entities. No distribution
20 shall be made to a State under this paragraph, how-
21 ever, unless the Secretary has determined (on the
22 basis of such information as may be available) that
23 the requirements of clauses (i), (ii), or (iii) of para-
24 graph 10(A) are likely to be met, notwithstanding

1 the lack of an application from the Governor of that
2 State.

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

11 (10) MAINTENANCE OF EFFORT.—

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

17 (i) for State fiscal year 2011, the
18 State will maintain State support for ele-
19 mentary and secondary education (in the
20 aggregate or on the basis of expenditures
21 per pupil) and for public institutions of
22 higher education (not including support for
23 capital projects or for research and devel-
24 opment or tuition and fees paid by stu-
25 dents) at not less than the level of such

1 support for each of the two categories, re-
2 spectively, for State fiscal year 2009;

3 (ii) for State fiscal year 2011, the
4 State will maintain State support for ele-
5 mentary and secondary education and for
6 public institutions of higher education (not
7 including support for capital projects or for
8 research and development or tuition and
9 fees paid by students) at a percentage of
10 the total revenues available to the State
11 that is equal to or greater than the per-
12 centage provided for each of the two cat-
13 egories, respectively, for State fiscal year
14 2010; or

15 (iii) in the case of a State in which
16 State tax collections for calendar year
17 2009 were less than State tax collections
18 for calendar year 2006, for State fiscal
19 year 2011 the State will maintain State
20 support for elementary and secondary edu-
21 cation (in the aggregate) and for public in-
22 stitutions of higher education (not includ-
23 ing support for capital projects or for re-
24 search and development or tuition and fees
25 paid by students)—

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

5 (II) at a percentage of the total
6 revenues available to the State that is
7 equal to or greater than the percent-
8 age provided for each of the two cat-
9 egories, respectively, for State fiscal
10 year 2006.

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

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

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

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

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

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

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

3 Subtitle A—State Fiscal Relief and Other Provisions

4 EXTENSION OF ARRA INCREASE IN FMAP

5 SEC. 201.

6 Section 5001 of the American Recovery and Reinvest-
7 ment Act of 2009 (Public Law 111-5) is amended—

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

11 (2) in subsection (b)—

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

15 (B) by adding at the end the following:

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

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

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

1 for the State under paragraph (1) or (2) (as
2 applicable) 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,
8 2011” 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
20 to expenditures for medical assistance provided to non-
21 pregnant 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
25 or other health benefits under eligibility standards in ef-

1 fect as of December 31, 2009, of a waiver of the State
2 child health 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 OF-
11 FICER.—No additional Federal funds shall be paid
12 to a State as a result of this section with respect to
13 a calendar quarter occurring during the period be-
14 ginning on January 1, 2011, and ending on June
15 30, 2011, unless, not later than 45 days after the
16 date of enactment of this paragraph, the chief execu-
17 tive officer of the State certifies that the State will
18 request and use such additional Federal funds.”;
19 and

20 (6) in subsection (h)(3), by striking “December
21 31, 2010” and inserting “June 30, 2011”.

22 TREATMENT OF CERTAIN DRUGS FOR COMPUTATION OF

23 MEDICAID AMP

24 SEC. 202.

25 Effective as if included in the enactment of Public
26 Law 111-148, section 1927(k)(1)(B)(i)(IV) of the Social

1 Security Act (42 U.S.C. 1396r-8(k)(1)(B)(i)(IV)), as
2 amended by section 2503(a)(2)(B) of Public Law 111-148
3 and section 1101(e)(2) of Public Law 111-152, is amend-
4 ed by adding at the end the following: “, unless the drug
5 is an inhalation, infusion, instilled, implanted, or
6 injectable drug that is not generally dispensed through a
7 retail community pharmacy; and”.

8 SUNSET OF TEMPORARY INCREASE IN BENEFITS UNDER
9 THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM
10 SEC. 203.

11 Section 101(a) of title I of division A of Public Law
12 111-5 (123 Stat. 120), as amended by section 4262 of
13 this Act, is amended by striking paragraph (2) and insert-
14 ing the following:

15 “(2) TERMINATION.—The authority provided by
16 this subsection shall terminate after March 31,
17 2015.”.

18 Subtitle B—Revenue Offsets

19 RULES TO PREVENT SPLITTING FOREIGN TAX CREDITS
20 FROM THE INCOME TO WHICH THEY RELATE
21 SEC. 211.

22 (a) IN GENERAL.—Subpart A of part III of sub-
23 chapter N of chapter 1 of the Internal Revenue Code of
24 1986 is amended by adding at the end the following new
25 section:

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

3 “(a) IN GENERAL.—If there is a foreign tax credit
4 splitting event with respect to a foreign income tax paid
5 or accrued by the taxpayer, such tax shall not be taken
6 into account for purposes of this title before the taxable
7 year in which the related income is taken into account
8 under this chapter by the taxpayer.

9 “(b) SPECIAL RULES WITH RESPECT TO SECTION
10 902 CORPORATIONS.—If there is a foreign tax credit split-
11 ting event with respect to a foreign income tax paid or
12 accrued by a section 902 corporation, such tax shall not
13 be taken into account—

14 “(1) for purposes of section 902 or 960, or

15 “(2) for purposes of determining earnings and
16 profits under section 964(a),

17 before the taxable year in which the related income is
18 taken into account under this chapter by such section 902
19 corporation or a domestic corporation which meets the
20 ownership requirements of subsection (a) or (b) of section
21 902 with respect to such section 902 corporation.

22 “(c) SPECIAL RULES.—For purposes of this sec-
23 tion—

24 “(1) APPLICATION TO PARTNERSHIPS, ETC.—In
25 the case of a partnership, subsections (a) and (b)
26 shall be applied at the partner level. Except as oth-

1 otherwise provided by the Secretary, a rule similar to
2 the rule of the preceding sentence shall apply in the
3 case of any S corporation or trust.

4 “(2) TREATMENT OF FOREIGN TAXES AFTER
5 SUSPENSION.—In the case of any foreign income tax
6 not taken into account by reason of subsection (a)
7 or (b), except as otherwise provided by the Sec-
8 retary, such tax shall be so taken into account in the
9 taxable year referred to in such subsection (other
10 than for purposes of section 986(a)) as a foreign in-
11 come tax paid or accrued in such taxable year.

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

13 “(1) FOREIGN TAX CREDIT SPLITTING
14 EVENT.—There is a foreign tax credit splitting event
15 with respect to a foreign income tax if the related
16 income is (or will be) taken into account under this
17 chapter by a covered person.

18 “(2) FOREIGN INCOME TAX.—The term ‘foreign
19 income tax’ means any income, war profits, or excess
20 profits tax paid or accrued to any foreign country or
21 to any possession of the United States.

22 “(3) RELATED INCOME.—The term ‘related in-
23 come’ means, with respect to any portion of any for-
24 eign income tax, the income (or, as appropriate,

1 earnings and profits) to which such portion of for-
2 eign income tax relates.

3 “(4) COVERED PERSON.—The term ‘covered
4 person’ means, with respect to any person who pays
5 or accrues a foreign income tax (hereafter in this
6 paragraph referred to as the ‘payor’)—

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

10 “(B) any person which holds, directly or
11 indirectly, at least a 10 percent ownership in-
12 terest (determined by vote or value) in the
13 payor,

14 “(C) any person which bears a relationship
15 to the payor described in section 267(b) or
16 707(b), and

17 “(D) any other person specified by the
18 Secretary for purposes of this paragraph.

19 “(5) SECTION 902 CORPORATION.—The term
20 ‘section 902 corporation’ means any foreign corpora-
21 tion with respect to which one or more domestic cor-
22 porations meets the ownership requirements of sub-
23 section (a) or (b) of section 902.

24 “(e) REGULATIONS.—The Secretary may issue such
25 regulations or other guidance as is necessary or appro-

1 priate to carry out the purposes of this section, including
2 regulations or other guidance which provides—

3 “(1) appropriate exceptions from the provisions
4 of this section, and

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

7 (b) CLERICAL AMENDMENT.—The table of sections
8 for subpart A of part III of subchapter N of chapter 1
9 of the Internal Revenue Code of 1986 is amended by add-
10 ing at the end the following new item:

“Sec. 909. Suspension of taxes and credits until related income taken into ac-
count.”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to—

13 (1) foreign income taxes (as defined in section
14 909(d) of the Internal Revenue Code of 1986, as
15 added by this section) paid or accrued in taxable
16 years beginning after December 31, 2010; and

17 (2) foreign income taxes (as so defined) paid or
18 accrued by a section 902 corporation (as so defined)
19 in taxable years beginning on or before such date
20 (and not deemed paid under section 902(a) or 960
21 of such Code on or before such date), but only for
22 purposes of applying sections 902 and 960 with re-
23 spect to periods after such date.

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

4 DENIAL OF FOREIGN TAX CREDIT WITH RESPECT TO
5 FOREIGN INCOME NOT SUBJECT TO UNITED STATES
6 TAXATION BY REASON OF COVERED ASSET ACQUI-
7 TIONS
8 SEC. 212.

9 (a) IN GENERAL.—Section 901 of the Internal Rev-
10 enue Code of 1986 is amended by redesignating subsection
11 (m) as subsection (n) and by inserting after subsection
12 (l) the following new subsection:

13 “(m) DENIAL OF FOREIGN TAX CREDIT WITH RE-
14 SPECT TO FOREIGN INCOME NOT SUBJECT TO UNITED
15 STATES TAXATION BY REASON OF COVERED ASSET AC-
16 QUISTIONS.—

17 “(1) IN GENERAL.—In the case of a covered
18 asset acquisition, the disqualified portion of any for-
19 eign income tax determined with respect to the in-
20 come or gain attributable to the relevant foreign as-
21 sets—

22 “(A) shall not be taken into account in de-
23 termining the credit allowed under subsection
24 (a), and

25 “(B) in the case of a foreign income tax
26 paid by a section 902 corporation (as defined in

1 section 909(d)(5)), shall not be taken into ac-
2 count for purposes of section 902 or 960.

3 “(2) COVERED ASSET ACQUISITION.—For pur-
4 poses of this section, the term ‘covered asset acqui-
5 sition’ means—

6 “(A) a qualified stock purchase (as defined
7 in section 338(d)(3)) to which section 338(a)
8 applies,

9 “(B) any transaction which—

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

12 “(ii) is treated as the acquisition of
13 stock of a corporation (or is disregarded)
14 for purposes of the foreign income taxes of
15 the relevant jurisdiction,

16 “(C) any acquisition of an interest in a
17 partnership which has an election in effect
18 under section 754, and

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

21 “(3) DISQUALIFIED PORTION.—For purposes of
22 this section—

23 “(A) IN GENERAL.—The term ‘disqualified
24 portion’ means, with respect to any covered

1 asset acquisition, for any taxable year, the ratio
2 (expressed as a percentage) of—

3 “(i) the aggregate basis differences
4 (but not below zero) allocable to such tax-
5 able year under subparagraph (B) with re-
6 spect to all relevant foreign assets, divided
7 by

8 “(ii) the income on which the foreign
9 income tax referred to in paragraph (1) is
10 determined (or, if the taxpayer fails to sub-
11 stantiate such income to the satisfaction of
12 the Secretary, such income shall be deter-
13 mined by dividing the amount of such for-
14 eign income tax by the highest marginal
15 tax rate applicable to such income in the
16 relevant jurisdiction).

17 “(B) ALLOCATION OF BASIS DIF-
18 FERENCE.—For purposes of subparagraph
19 (A)(i)—

20 “(i) IN GENERAL.—The basis dif-
21 ference with respect to any relevant foreign
22 asset shall be allocated to taxable years
23 using the applicable cost recovery method
24 under this chapter.

1 “(ii) SPECIAL RULE FOR DISPOSITION
2 OF ASSETS.—Except as otherwise provided
3 by the Secretary, in the case of the disposi-
4 tion of any relevant foreign asset—

5 “(I) the basis difference allocated
6 to the taxable year which includes the
7 date of such disposition shall be the
8 excess of the basis difference with re-
9 spect to such asset over the aggregate
10 basis difference with respect to such
11 asset which has been allocated under
12 clause (i) to all prior taxable years,
13 and

14 “(II) no basis difference with re-
15 spect to such asset shall be allocated
16 under clause (i) to any taxable year
17 thereafter.

18 “(C) BASIS DIFFERENCE.—

19 “(i) IN GENERAL.—The term ‘basis
20 difference’ means, with respect to any rel-
21 evant foreign asset, the excess of—

22 “(I) the adjusted basis of such
23 asset immediately after the covered
24 asset acquisition, over

1 “(II) the adjusted basis of such
2 asset immediately before the covered
3 asset acquisition.

4 “(ii) BUILT-IN LOSS ASSETS.—In the
5 case of a relevant foreign asset with re-
6 spect to which the amount described in
7 clause (i)(II) exceeds the amount described
8 in clause (i)(I), such excess shall be taken
9 into account under this subsection as a
10 basis difference of a negative amount.

11 “(iii) SPECIAL RULE FOR SECTION 338
12 ELECTIONS.—In the case of a covered
13 asset acquisition described in paragraph
14 (2)(A), the covered asset acquisition shall
15 be treated for purposes of this subpara-
16 graph as occurring at the close of the ac-
17 quisition date (as defined in section
18 338(h)(2)).

19 “(4) RELEVANT FOREIGN ASSETS.—For pur-
20 poses of this section, the term ‘relevant foreign
21 asset’ means, with respect to any covered asset ac-
22 quisition, any asset (including any goodwill, going
23 concern value, or other intangible) with respect to
24 such acquisition if income, deduction, gain, or loss
25 attributable to such asset is taken into account in

1 determining the foreign income tax referred to in
2 paragraph (1).

3 “(5) FOREIGN INCOME TAX.—For purposes of
4 this section, the term ‘foreign income tax’ means
5 any income, war profits, or excess profits tax paid
6 or accrued to any foreign country or to any posses-
7 sion of the United States.

8 “(6) TAXES ALLOWED AS A DEDUCTION, ETC.—
9 Sections 275 and 78 shall not apply to any tax
10 which is not allowable as a credit under subsection
11 (a) by reason of this subsection.

12 “(7) REGULATIONS.—The Secretary may issue
13 such regulations or other guidance as is necessary or
14 appropriate to carry out the purposes of this sub-
15 section, including to exempt from the application of
16 this subsection certain covered asset acquisitions,
17 and relevant foreign assets with respect to which the
18 basis difference is de minimis.”.

19 (b) EFFECTIVE DATE.—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2), the amendments made by this section
22 shall apply to covered asset acquisitions (as defined
23 in section 901(m)(2) of the Internal Revenue Code
24 of 1986, as added by this section) after December
25 31, 2010.

1 (2) TRANSITION RULE.—The amendments
2 made by this section shall not apply to any covered
3 asset acquisition (as so defined) with respect to
4 which the transferor and the transferee are not re-
5 lated if such acquisition is—

6 (A) made pursuant to a written agreement
7 which was binding on January 1, 2011, and at
8 all times thereafter,

9 (B) described in a ruling request submitted
10 to the Internal Revenue Service on or before
11 May 20, 2010, or

12 (C) described on or before January 1,
13 2011, in a public announcement or in a filing
14 with the Securities and Exchange Commission.

15 (3) RELATED PERSONS.—For purposes of this
16 subsection, a person shall be treated as related to
17 another person if the relationship between such per-
18 sons is described in section 267 or 707(b) of the In-
19 ternal Revenue Code of 1986.

20 SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIM-
21 TATION, ETC., TO ITEMS RESOURCED UNDER TREA-
22 TIES

23 SEC. 213.

24 (a) IN GENERAL.—Subsection (d) of section 904 of
25 the Internal Revenue Code of 1986 is amended by redesi-

1 nating paragraph (6) as paragraph (7) and by inserting
2 after paragraph (5) the following new paragraph:

3 “(6) SEPARATE APPLICATION TO ITEMS
4 RESOURCED UNDER TREATIES.—

5 “(A) IN GENERAL.—If—

6 “(i) without regard to any treaty obli-
7 gation of the United States, any item of
8 income would be treated as derived from
9 sources within the United States,

10 “(ii) under a treaty obligation of the
11 United States, such item would be treated
12 as arising from sources outside the United
13 States, and

14 “(iii) the taxpayer chooses the bene-
15 fits of such treaty obligation,
16 subsections (a), (b), and (c) of this section and
17 sections 902, 907, and 960 shall be applied sep-
18 arately with respect to each such item.

19 “(B) COORDINATION WITH OTHER PROVI-
20 SIONS.—This paragraph shall not apply to any
21 item of income to which subsection (h)(10) or
22 section 865(h) applies.

23 “(C) REGULATIONS.—The Secretary may
24 issue such regulations or other guidance as is
25 necessary or appropriate to carry out the pur-

1 poses of this paragraph, including regulations
2 or other guidance which provides that related
3 items of income may be aggregated for pur-
4 poses of this paragraph.”.

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

8 LIMITATION ON THE AMOUNT OF FOREIGN TAXES
9 DEEMED PAID WITH RESPECT TO SECTION 956 IN-
10 CLUSIONS
11 SEC. 214.

12 (a) IN GENERAL.—Section 960 of the Internal Rev-
13 enue Code of 1986 is amended by adding at the end the
14 following new subsection:

15 “(c) LIMITATION WITH RESPECT TO SECTION 956
16 INCLUSIONS.—

17 “(1) IN GENERAL.—If there is included under
18 section 951(a)(1)(B) in the gross income of a do-
19 mestic corporation any amount attributable to the
20 earnings and profits of a foreign corporation which
21 is a member of a qualified group (as defined in sec-
22 tion 902(b)) with respect to the domestic corpora-
23 tion, the amount of any foreign income taxes deemed
24 to have been paid during the taxable year by such
25 domestic corporation under section 902 by reason of
26 subsection (a) with respect to such inclusion in gross

1 income shall not exceed the amount of the foreign
2 income taxes which would have been deemed to have
3 been paid during the taxable year by such domestic
4 corporation if cash in an amount equal to the
5 amount of such inclusion in gross income were dis-
6 tributed as a series of distributions (determined
7 without regard to any foreign taxes which would be
8 imposed on an actual distribution) through the chain
9 of ownership which begins with such foreign cor-
10 poration and ends with such domestic corporation.

11 “(2) AUTHORITY TO PREVENT ABUSE.—The
12 Secretary shall issue such regulations or other guid-
13 ance as is necessary or appropriate to carry out the
14 purposes of this subsection, including regulations or
15 other guidance which prevent the inappropriate use
16 of the foreign corporation’s foreign income taxes not
17 deemed paid by reason of paragraph (1).”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to acquisitions of United States
20 property (as defined in section 956(c) of the Internal Rev-
21 enue Code of 1986) after December 31, 2010.

22 SPECIAL RULE WITH RESPECT TO CERTAIN
23 REDEMPTIONS BY FOREIGN SUBSIDIARIES
24 SEC. 215.

25 (a) IN GENERAL.—Paragraph (5) of section 304(b)
26 of the Internal Revenue Code of 1986 is amended by re-

1 designating subparagraph (B) as subparagraph (C) and
2 by inserting after subparagraph (A) the following new sub-
3 paragraph:

4 “(B) SPECIAL RULE IN CASE OF FOREIGN
5 ACQUIRING CORPORATION.—In the case of any
6 acquisition to which subsection (a) applies in
7 which the acquiring corporation is a foreign
8 corporation, no earnings and profits shall be
9 taken into account under paragraph (2)(A)
10 (and subparagraph (A) shall not apply) if more
11 than 50 percent of the dividends arising from
12 such acquisition (determined without regard to
13 this subparagraph) would neither—

14 “(i) be subject to tax under this chap-
15 ter for the taxable year in which the divi-
16 dends arise, nor

17 “(ii) be includible in the earnings and
18 profits of a controlled foreign corporation
19 (as defined in section 957 and without re-
20 gard to section 953(e)).”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to acquisitions after the date of
23 the enactment of this Act.

24 MODIFICATION OF AFFILIATION RULES FOR PURPOSES OF
25 RULES ALLOCATING INTEREST EXPENSE

26 SEC. 216.

1 (a) IN GENERAL.—Subparagraph (A) of section
2 864(e)(5) of the Internal Revenue Code of 1986 is amend-
3 ed by adding at the end the following: “Notwithstanding
4 the preceding sentence, a foreign corporation shall be
5 treated as a member of the affiliated group if—

6 “(i) more than 50 percent of the gross
7 income of such foreign corporation for the
8 taxable year is effectively connected with
9 the conduct of a trade or business within
10 the United States, and

11 “(ii) at least 80 percent of either the
12 vote or value of all outstanding stock of
13 such foreign corporation is owned directly
14 or indirectly by members of the affiliated
15 group (determined with regard to this sen-
16 tence).”.

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

20 TERMINATION OF SPECIAL RULES FOR INTEREST AND
21 DIVIDENDS RECEIVED FROM PERSONS MEETING THE
22 80-PERCENT FOREIGN BUSINESS REQUIREMENTS
23 SEC. 217.

24 (a) IN GENERAL.—Paragraph (1) of section 861(a)
25 of the Internal Revenue Code of 1986 is amended by strik-

1 ing subparagraph (A) and by redesignating subparagraphs
2 (B) and (C) as subparagraphs (A) and (B), respectively.

3 (b) GRANDFATHER RULE WITH RESPECT TO WITH-
4 HOLDING ON INTEREST AND DIVIDENDS RECEIVED FROM
5 PERSONS MEETING THE 80-PERCENT FOREIGN BUSI-
6 NESS REQUIREMENTS.—

7 (1) IN GENERAL.—Subparagraph (B) of section
8 871(i)(2) of the Internal Revenue Code of 1986 is
9 amended to read as follows:

10 “(B) The active foreign business percent-
11 age of—

12 “(i) any dividend paid by an existing
13 80/20 company, and

14 “(ii) any interest paid by an existing
15 80/20 company.”.

16 (2) DEFINITIONS AND SPECIAL RULES.—Sec-
17 tion 871 of such Code is amended by redesignating
18 subsections (l) and (m) as subsections (m) and (n),
19 respectively, and by inserting after subsection (k)
20 the following new subsection:

21 “(l) RULES RELATING TO EXISTING 80/20 COMPA-
22 NIES.—For purposes of this subsection and subsection
23 (i)(2)(B)—

24 “(1) EXISTING 80/20 COMPANY.—

1 “(A) IN GENERAL.—The term ‘existing 80/
2 20 company’ means any corporation if—

3 “(i) such corporation met the 80-per-
4 cent foreign business requirements of sec-
5 tion 861(c)(1) (as in effect before the date
6 of the enactment of this subsection) for
7 such corporation’s last taxable year begin-
8 ning before January 1, 2011,

9 “(ii) such corporation meets the 80-
10 percent foreign business requirements of
11 subparagraph (B) with respect to each tax-
12 able year after the taxable year referred to
13 in clause (i), and

14 “(iii) there has not been an addition
15 of a substantial line of business with re-
16 spect to such corporation after the date of
17 the enactment of this subsection.

18 “(B) FOREIGN BUSINESS REQUIRE-
19 MENTS.—

20 “(i) IN GENERAL.—Except as pro-
21 vided in clause (iv), a corporation meets
22 the 80-percent foreign business require-
23 ments of this subparagraph if it is shown
24 to the satisfaction of the Secretary that at
25 least 80 percent of the gross income from

1 all sources of such corporation for the test-
2 ing period is active foreign business in-
3 come.

4 “(ii) ACTIVE FOREIGN BUSINESS IN-
5 COME.—For purposes of clause (i), the
6 term ‘active foreign business income’
7 means gross income which—

8 “(I) is derived from sources out-
9 side the United States (as determined
10 under this subchapter), and

11 “(II) is attributable to the active
12 conduct of a trade or business in a
13 foreign country or possession of the
14 United States.

15 “(iii) TESTING PERIOD.—For pur-
16 poses of this subsection, the term ‘testing
17 period’ means the 3-year period ending
18 with the close of the taxable year of the
19 corporation preceding the payment (or
20 such part of such period as may be appli-
21 cable). If the corporation has no gross in-
22 come for such 3-year period (or part there-
23 of), the testing period shall be the taxable
24 year in which the payment is made.

1 “(iv) TRANSITION RULE.—In the case
2 of a taxable year for which the testing pe-
3 riod includes 1 or more taxable years be-
4 ginning before January 1, 2011—

5 “(I) a corporation meets the 80-
6 percent foreign business requirements
7 of this subparagraph if and only if the
8 weighted average of—

9 “(aa) the percentage of the
10 corporation’s gross income from
11 all sources that is active foreign
12 business income (as defined in
13 subparagraph (B) of section
14 861(c)(1) (as in effect before the
15 date of the enactment of this
16 subsection)) for the portion of
17 the testing period that includes
18 taxable years beginning before
19 January 1, 2011, and

20 “(bb) the percentage of the
21 corporation’s gross income from
22 all sources that is active foreign
23 business income (as defined in
24 clause (ii) of this subparagraph)
25 for the portion of the testing pe-

1 riod, if any, that includes taxable
2 years beginning on or after Janu-
3 ary 1, 2011,

4 is at least 80 percent, and

5 “(II) the active foreign business
6 percentage for such taxable year shall
7 equal the weighted average percentage
8 determined under subclause (I).

9 “(2) ACTIVE FOREIGN BUSINESS PERCENT-
10 AGE.—Except as provided in paragraph (1)(B)(iv),
11 the term ‘active foreign business percentage’ means,
12 with respect to any existing 80/20 company, the per-
13 centage which—

14 “(A) the active foreign business income of
15 such company for the testing period, is of

16 “(B) the gross income of such company for
17 the testing period from all sources.

18 “(3) AGGREGATION RULES.—For purposes of
19 applying paragraph (1) (other than subparagraphs
20 (A)(i) and (B)(iv) thereof) and paragraph (2)—

21 “(A) IN GENERAL.—The corporation re-
22 ferred to in paragraph (1)(A) and all of such
23 corporation’s subsidiaries shall be treated as
24 one corporation.

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

9 “(4) REGULATIONS.—The Secretary may issue
10 such regulations or other guidance as is necessary or
11 appropriate to carry out the purposes of this section,
12 including regulations or other guidance which pro-
13 vide for the proper application of the aggregation
14 rules described in paragraph (3).”.

15 (c) CONFORMING AMENDMENTS.—

16 (1) Section 861 of the Internal Revenue Code
17 of 1986 is amended by striking subsection (e) and
18 by redesignating subsections (d), (e), and (f) as sub-
19 sections (e), (d), and (e), respectively.

20 (2) Paragraph (9) of section 904(h) of such
21 Code is amended to read as follows:

22 “(9) TREATMENT OF CERTAIN DOMESTIC COR-
23 PORATIONS.—In the case of any dividend treated as
24 not from sources within the United States under
25 section 861(a)(2)(A), the corporation paying such

1 dividend shall be treated for purposes of this sub-
2 section as a United States-owned foreign corpora-
3 tion.”.

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

8 (d) EFFECTIVE DATE.—

9 (1) IN GENERAL.—Except as provided in para-
10 graph (2), the amendments made by this section
11 shall apply to taxable years beginning after Decem-
12 ber 31, 2010.

13 (2) GRANDFATHER RULE FOR OUTSTANDING
14 DEBT OBLIGATIONS.—

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

19 (B) EXCEPTION FOR RELATED PARTY
20 DEBT.—Subparagraph (A) shall not apply to
21 any interest which is payable to a related per-
22 son (determined under rules similar to the rules
23 of section 954(d)(3)).

24 (C) SIGNIFICANT MODIFICATIONS TREAT-
25 ED AS NEW ISSUES.—For purposes of subpara-

1 graph (A), a significant modification of the
2 terms of any obligation (including any extension
3 of the term of such obligation) shall be treated
4 as a new issue.

5 LIMITATION ON EXTENSION OF STATUTE OF LIMITATIONS
6 FOR FAILURE TO NOTIFY SECRETARY OF CERTAIN
7 FOREIGN TRANSFERS
8 SEC. 218.

9 (a) IN GENERAL.—Paragraph (8) of section 6501(c)
10 of the Internal Revenue Code of 1986 is amended—

11 (1) by striking “In the case of any information”
12 and inserting the following:

13 “(A) IN GENERAL.—In the case of any in-
14 formation”; and

15 (2) by adding at the end the following:

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

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

TITLE III

RESCISSIONS

1
2
3 SEC. 301. There is rescinded from accounts under the
4 heading “Department of Agriculture—Rural Develop-
5 ment”, \$122,000,000, to be derived from the unobligated
6 balances of funds that were provided for such accounts
7 in prior appropriation Acts (other than Public Law 111-
8 5) and that were designated by the Congress in such Acts
9 as an emergency requirement pursuant to a concurrent
10 resolution on the budget or the Balanced Budget and
11 Emergency Deficit Control Act of 1985.

12 SEC. 302. Of the funds made available for “Depart-
13 ment of Agriculture—Rural Utilities Service—Distance
14 Learning, Telemedicine, and Broadband Program” in title
15 I of division A of Public Law 111-5 (123 Stat. 118),
16 \$300,000,000 are rescinded.

17 SEC. 303. There is rescinded from accounts under the
18 heading “Department of Agriculture—Food and Nutrition
19 Service—Special Supplemental Nutrition Program for
20 Women, Infants, and Children (WIC)”, \$361,825,000, to
21 be derived from unobligated balances available from
22 amounts placed in reserve in title I of division A of Public
23 Law 111-5 (123 Stat. 115).

24 SEC. 304. Of the funds made available for “Depart-
25 ment of Commerce—National Telecommunications and

1 “Missile Procurement, Air Force, 2008/2010”,
2 \$28,000,000;
3 “Procurement of Ammunition, Air Force, 2008/
4 2010”, \$7,000,000;
5 “Other Procurement, Air Force, 2008/2010”,
6 \$130,000,000;
7 “Procurement, Defense-Wide, 2008/2010”,
8 \$33,000,000;
9 “Research, Development, Test and Evaluation,
10 Army, 2009/2010”, \$76,000,000;
11 “Research, Development, Test and Evaluation,
12 Navy, 2009/2010”, \$131,000,000;
13 “Research, Development, Test and Evaluation,
14 Air Force, 2009/2010”, \$164,000,000;
15 “Research, Development, Test and Evaluation,
16 Defense-Wide, 2009/2010”, \$137,000,000;
17 “Operation, Test and Evaluation, Defense,
18 2009/2010”, \$1,000,000;
19 “Operation and Maintenance, Army, 2010”,
20 \$154,000,000;
21 “Operation and Maintenance, Navy, 2010”,
22 \$155,000,000;
23 “Operation and Maintenance, Marine Corps,
24 2010”, \$25,000,000;

1 Information Administration—Broadband Technology Op-
2 portunities Program” in title II of division A of Public
3 Law 111–5, \$302,000,000 are rescinded.

4 SEC. 305. (a) Of the funds appropriated in Depart-
5 ment of Defense Appropriations Acts, the following funds
6 are rescinded from the following accounts in the specified
7 amounts:

8 “Shipbuilding and Conversion, Navy, 2006/
9 2010”, \$107,000,000;

10 “Aircraft Procurement, Army, 2008/2010”,
11 \$21,000,000;

12 “Procurement of Weapons and Tracked Combat
13 Vehicles, Army, 2008/2010”, \$21,000,000;

14 “Procurement of Ammunition, Army, 2008/
15 2010”, \$17,000,000;

16 “Other Procurement, Army, 2008/2010”,
17 \$75,000,000;

18 “Weapons Procurement, Navy, 2008/2010”,
19 \$26,000,000;

20 “Other Procurement, Navy, 2008/2010”,
21 \$42,000,000;

22 “Procurement, Marine Corps, 2008/2010”,
23 \$13,000,000;

24 “Aircraft Procurement, Air Force, 2008/2010”,
25 \$102,000,000;

1 “Operation and Maintenance, Air Force,
2 2010”, \$155,000,000;

3 “Operation and Maintenance, Defense-Wide,
4 2010”, \$126,000,000;

5 “Operation and Maintenance, Army Reserve,
6 2010”, \$12,000,000;

7 “Operation and Maintenance, Navy Reserve,
8 2010”, \$6,000,000;

9 “Operation and Maintenance, Marine Corps Re-
10 serve, 2010”, \$1,000,000;

11 “Operation and Maintenance, Air Force Re-
12 serve, 2010”, \$14,000,000;

13 “Operation and Maintenance, Army National
14 Guard, 2010”, \$28,000,000; and

15 “Operation and Maintenance, Air National
16 Guard, 2010”, \$27,000,000.

17 (b) Section 3002 shall not apply to amounts in this
18 section.

19 SEC. 306. (a) Of the funds appropriated in the Amer-
20 ican Recovery and Reinvestment Act of 2009 (Public Law
21 111-5), the following funds are rescinded from the fol-
22 lowing accounts in the specified amounts:

23 “Operation and Maintenance, Army, 2009/
24 2010”, \$113,500,000;

1 “Operation and Maintenance, Navy, 2009/
2 2010”, \$34,000,000;

3 “Operation and Maintenance, Marine Corps,
4 2009/2010”, \$7,000,000;

5 “Operation and Maintenance, Air Force, 2009/
6 2010”, \$61,000,000;

7 “Operation and Maintenance, Army Reserve,
8 2009/2010”, \$3,500,000;

9 “Operation and Maintenance, Navy Reserve,
10 2009/2010”, \$8,000,000;

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

13 “Operation and Maintenance, Air Force Re-
14 serve, 2009/2010”, \$2,000,000;

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

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

19 “Defense Health Program, 2009/2010”,
20 \$27,000,000.

21 (b) Of the funds appropriated in the Supplemental
22 Appropriations Act, 2008 (Public Law 110–252), the fol-
23 lowing funds are rescinded from the following account in
24 the specified amount:

1 “Procurement, Marine Corps, 2009/2011”,
2 \$122,000,000.

3 SEC. 307. (a) Of the funds appropriated for “Pro-
4 curement of Weapons and Tracked Combat Vehicles,
5 Army” in title III of division A of public Law 111-118,
6 \$116,000,000 are rescinded.

7 (b) Of the funds appropriated for “Other Procure-
8 ment, Army” in title III of division C of Public Law 110-
9 329, \$87,000,000 are rescinded.

10 (c) Section 3002 shall not apply to amounts in this
11 section.

12 SEC. 308. (a) There are rescinded the following
13 amounts from the specified accounts:

14 (1) \$20,000,000, to be derived from unobli-
15 gated balances of funds made available in prior ap-
16 propriations Acts under the heading “Department of
17 Energy—Nuclear Energy”.

18 (b) Section 3002 shall not apply to amounts in this
19 section.

20 SEC. 309. Of the unobligated balances of funds pro-
21 vided under the heading “Nuclear Regulatory Commis-
22 sion” in prior appropriations Acts, \$18,000,000 is perma-
23 nently rescinded: *Provided*, That section 3002 shall not
24 apply to the amount in this section.

1 SEC. 310. Of the funds made available for “Depart-
2 ment of Energy—Title 17—Innovative Technology Loan
3 Guarantee Program” in title III of division A of Public
4 Law 111-5, \$1,500,000,000 are rescinded.

5 SEC. 311. There are permanently rescinded from
6 “General Services Administration—Real Property Activi-
7 ties—Federal Building Fund”, \$75,000,000 from Rental
8 of Space and \$25,000,000 from Building Operations, to
9 be derived from unobligated balances that were provided
10 in previous appropriations Acts: *Provided*, That section
11 3002 shall not apply to the amount in this section.

12 SEC. 312. Of the funds made available for “Bureau
13 of Indian Affairs—Indian Guaranteed Loan Program Ac-
14 count” in title VII of division A of Public Law 111-5,
15 \$6,820,000 are rescinded.

16 SEC. 313. Of the funds made available for “Environ-
17 mental Protection Agency—Hazardous Substance Super-
18 fund” in title VII of division A of Public Law 111-5,
19 \$2,600,000 are rescinded.

20 SEC. 314. Of the funds made available for “Environ-
21 mental Protection Agency—Leaking Underground Stor-
22 age Tank Trust Fund Program” in title VII of division
23 A of Public Law 111-5, \$9,200,000 are rescinded.

24 SEC. 315. Of the funds made available for transfer
25 in title VII of division A of Public Law 111-5, “Environ-

1 mental Protection Agency—Environmental Programs and
2 Management”, \$10,000,000 are rescinded.

3 SEC. 316. Of the funds made available for “National
4 Park Service—Construction” in chapter 7 of division B
5 of Public Law 108–324, \$4,800,000 are rescinded.

6 SEC. 317. Of the funds made available for “National
7 Park Service—Construction” in chapter 5 of title II of
8 Public Law 109–234, \$6,400,000 are rescinded.

9 SEC. 318. Of the funds made available for “Fish and
10 Wildlife Service—Construction” in chapter 6 of title I of
11 division B of Public Law 110–329, \$3,000,000 are re-
12 scinded.

13 SEC. 319. The unobligated balance of funds appro-
14 priated in the Departments of Labor, Health and Human
15 Services, and Education, and Related Agencies Appropria-
16 tions Act, 1995 (Public Law 103–333; 108 Stat. 2574)
17 under the heading “Public Health and Social Services
18 Emergency Fund” is rescinded.

19 SEC. 320. Of the funds appropriated for the Commis-
20 sioner of Social Security under section 2201(e)(2)(B) in
21 title II of division B of Public Law 111–5, \$47,000,000
22 are rescinded.

23 SEC. 321. Of the funds appropriated in part VI of
24 subtitle I of title II of division B of Public Law 111–5,

1 \$110,000,000 are rescinded, to be derived only from the
2 amount provided under section 1899K(b) of such title.

3 SEC. 322. Of the funds appropriated for “Depart-
4 ment of Education—Education for the Disadvantaged” in
5 division D of Public Law 111–117, \$50,000,000 are re-
6 scinded, to be derived only from the amount provided for
7 a comprehensive literacy development and education pro-
8 gram under section 1502 of the Elementary and Sec-
9 ondary Education Act of 1965: *Provided*, That section
10 3002 of this Act shall not apply to this amount.

11 SEC. 323. Of the funds appropriated for “Depart-
12 ment of Education—Student Aid Administration” in divi-
13 sion D of Public Law 111–117, \$82,000,000 are re-
14 scinded: *Provided*, That section 3002 of this Act shall not
15 apply to this amount.

16 SEC. 324. Of the funds appropriated for “Depart-
17 ment of Education—Innovation and Improvement” in di-
18 vision D of Public Law 111–117, \$10,700,000 are re-
19 scinded, to be derived only from the amount provided to
20 carry out subpart 8 of part D of title V of the Elementary
21 and Secondary Education Act of 1965: *Provided*, That
22 section 3002 of this Act shall not apply to this amount.

23 SEC. 325. Of the unobligated balances available
24 under “Department of Defense, Military Construction,
25 Army” from prior appropriations Acts, \$340,000,000 is

1 rescinded: *Provided*, That no funds may be rescinded from
2 amounts that were designated by the Congress as an
3 emergency requirement or as appropriations for overseas
4 deployments and other activities pursuant to a concurrent
5 resolution on the budget or the Balanced Budget and
6 Emergency Deficit Control Act of 1985: *Provided further*,
7 That section 3002 shall not apply to the amount in this
8 section.

9 SEC. 326. Of the unobligated balances available
10 under "Department of Defense, Military Construction,
11 Navy and Marine Corps" from prior appropriations Acts,
12 \$110,000,000 is rescinded: *Provided*, That no funds may
13 be rescinded from amounts that were designated by the
14 Congress as an emergency requirement or as appropria-
15 tions for overseas deployments and other activities pursu-
16 ant to a concurrent resolution on the budget or the Bal-
17 anced Budget and Emergency Deficit Control Act of 1985:
18 *Provided further*, That section 3002 shall not apply to the
19 amount in this section.

20 SEC. 327. Of the unobligated balances available
21 under "Department of Defense, Military Construction, Air
22 Force" from prior appropriations Acts, \$50,000,000 is re-
23 scinded: *Provided*, That no funds may be rescinded from
24 amounts that were designated by the Congress as an
25 emergency requirement or as appropriations for overseas

1 deployments and other activities pursuant to a concurrent
2 resolution on the budget or the Balanced Budget and
3 Emergency Deficit Control Act of 1985: *Provided further*,
4 That section 3002 shall not apply to the amount in this
5 section.

6 SEC. 328. Of the funds made available for the Gen-
7 eral Operating Expenses account of the Department of
8 Veterans Affairs in section 2201(e)(4)(A)(ii) of division B
9 of Public Law 111-5 (123 Stat. 454; 26 U.S.C. 6428
10 note), \$6,100,000 are rescinded.

11 SEC. 329. Of the amount appropriated or otherwise
12 made available by title X of division A of Public Law 111-
13 5, the American Recovery and Reinvestment Act of 2009,
14 under the heading “ Departmental Administration, Infor-
15 mation Technology Systems” \$5,000,000 is hereby re-
16 scinded.

17 SEC. 330. (a) MILLENNIUM CHALLENGE CORPORA-
18 TION.—Of the unobligated balances available under the
19 heading “Millennium Challenge Corporation” in title III
20 of division H of Public Law 111-8 and under such head-
21 ing in prior Acts making appropriations for the Depart-
22 ment of State, foreign operations, and related programs,
23 \$50,000,000 are rescinded.

24 (b) CIVILIAN STABILIZATION INITIATIVE.—

1 (1) DEPARTMENT OF STATE.—Of the unobli-
2 gated balances available under the heading “Depart-
3 ment of State—Administration of Foreign Affairs—
4 Civilian Stabilization Initiative” in prior Acts mak-
5 ing appropriations for the Department of State, for-
6 eign operations, and related programs, \$40,000,000
7 are rescinded.

8 (2) UNITED STATES AGENCY FOR INTER-
9 NATIONAL DEVELOPMENT.—Of the unobligated bal-
10 ances available under the heading “United States
11 Agency for International Development—Funds Ap-
12 propriated to the President—Civilian Stabilization
13 Initiative” in prior Acts making appropriations for
14 the Department of State, foreign operations, and re-
15 lated programs, \$30,000,000 are rescinded.

16 (c) Section 3002 shall not apply to the amounts in
17 this section.

18 SEC. 331. There are rescinded the following amounts
19 from the specified accounts:

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

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

6 SEC. 332. Of the unobligated balances of funds ap-
7 portioned to each State under chapter 1 of title 23, United
8 States Code, \$2,200,000,000 are permanently rescinded:
9 *Provided*, That such rescission shall be distributed among
10 the States in the same proportion as the funds subject
11 to such rescission were apportioned to the States for fiscal
12 year 2009: *Provided further*, That such rescission shall not
13 apply to the funds distributed in accordance with sections
14 130(f) and 104(b)(5) of title 23, United States Code; sec-
15 tions 133(d)(1) and 163 of such title, as in effect on the
16 day before the date of enactment of Public Law 109–59;
17 and the first sentence of section 133(d)(3)(A) of such title:
18 *Provided further*, That notwithstanding section 1132 of
19 Public Law 110–140, in administering the rescission re-
20 quired under this heading, the Secretary of Transpor-
21 tation shall allow each State to determine the amount of
22 the required rescission to be drawn from the programs to
23 which the rescission applies.

1 be maintained by OMB under the Statutory Pay-As-
2 You-Go Act of 2010.

1

TITLE IV

2

BUDGETARY PROVISIONS

3

BUDGETARY PROVISIONS

4

SEC. 401. (a) STATUTORY PAYGO.—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.

14

(b) EXCLUSION FROM PAYGO.—

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(1) Savings in this Act that would be subject to inclusion in the Statutory Pay-As-You-Go scorecards are providing an offset to increased discretionary spending. As such, they should not be available on the scorecards maintained by the Office of Management and Budget to provide offsets for future legislation.

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(2) The Director of the Office of Management and Budget shall not include any net savings resulting from the changes in direct spending or revenues contained in this Act on the scorecards required to

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