

OMNIBUS APPROPRIATIONS ACT, 2009

[[Page 123 STAT. 524]]

Public Law 111-8
111th Congress

An Act

Making omnibus appropriations for the fiscal year ending September 30, 2009, and for other purposes. <<NOTE: Mar. 11, 2009 - [H.R. 1105]>>

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, <<NOTE: Omnibus Appropriations Act, 2009.>>

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Omnibus Appropriations Act, 2009''.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. References.
- Sec. 4. Explanatory statement.
- Sec. 5. Statement of appropriations.

DIVISION A--AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG
ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2009

- Title I--Agricultural Programs
- Title II--Conservation Programs
- Title III--Rural Development Programs
- Title IV--Domestic Food Programs
- Title V--Foreign Assistance and Related Programs
- Title VI--Related Agency and Food and Drug Administration
- Title VII--General Provisions

Agricultural Marketing Service

marketing services

For necessary expenses of the Agricultural Marketing Service, \$86,711,000: Provided, That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one

[[Page 123 STAT. 534]]

building during the fiscal year shall not exceed 10 percent of the

current replacement value of the building.

Fees may be collected for the cost of standardization activities, as established by regulation pursuant to law (31 U.S.C. 9701).

limitation on administrative expenses

Not to exceed \$62,888,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: Provided, That <<NOTE: Notification.>> if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 percent with notification to the Committees on Appropriations of both Houses of Congress.

funds for strengthening markets, income, and supply (section 32)

(including transfers of funds)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be used only for commodity program expenses as authorized therein, and other related operating expenses, including not less than \$10,000,000 for replacement of a system to support commodity purchases, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than \$17,270,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937 and the Agricultural Act of 1961.

payments to states and possessions

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), \$1,334,000.

TITLE VII

GENERAL PROVISIONS

(including rescission and transfers of funds)

Sec. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the current fiscal year under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 327 passenger motor vehicles, of which 315 shall be for replacement only, and for the hire of such vehicles.

Sec. 702. <<NOTE: 7 USC 2209b note.>> New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Food Safety and Inspection Service, Public Health Data Communication Infrastructure System; Farm Service Agency, salaries and expenses funds made available to county committees; Foreign Agricultural Service, middle-income country training program, and up to \$2,000,000 of the Foreign Agricultural Service appropriation solely for the purpose of offsetting fluctuations in international currency exchange rates, subject to documentation by the Foreign Agricultural Service.

Sec. 703. The Secretary of Agriculture may transfer unobligated balances of discretionary funds appropriated by this Act or other available unobligated discretionary balances of the Department of Agriculture to the Working Capital Fund for the acquisition of plant and capital equipment necessary for the financial management modernization initiative and the delivery of financial, administrative, and information technology services of primary benefit to the agencies of the Department of Agriculture: Provided, That none of the funds made available by this Act or any other Act shall be transferred to the Working Capital Fund without the prior approval of the agency administrator: Provided further, That none of the funds transferred to the Working Capital Fund pursuant to this section shall be available for obligation without the prior approval of the Committees on Appropriations of both Houses of Congress: Provided further, That none of the funds appropriated by this Act or made available to the Department's Working Capital Fund shall be available for obligation or expenditure to make any changes to the Department's National Finance Center without prior approval of the Committees on Appropriations of both Houses of Congress as required by section 712 of this Act.

Sec. 704. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Sec. 705. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 percent of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

Sec. 706. Appropriations to the Department of Agriculture for the cost of direct and guaranteed loans made available in the current fiscal year shall remain available until expended to disburse

[[Page 123 STAT. 554]]

obligations made in the current fiscal year for the following accounts: the Rural Development Loan Fund program account, the Rural Electrification and Telecommunication Loans program account, and the Rural Housing Insurance Fund program account.

Sec. 707. Of the funds made available by this Act, not more than \$1,800,000 shall be used to cover necessary expenses of activities related to all advisory committees, panels, commissions, and task forces of the Department of Agriculture, except for panels used to comply with

negotiated rule makings and panels used to evaluate competitively awarded grants.

Sec. 708. None of the funds appropriated by this Act may be used to carry out section 410 of the Federal Meat Inspection Act (21 U.S.C. 679a) or section 30 of the Poultry Products Inspection Act (21 U.S.C. 471).

Sec. 709. No employee of the Department of Agriculture may be detailed or assigned from an agency or office funded by this Act to any other agency or office of the Department for more than 30 days unless the individual's employing agency or office is fully reimbursed by the receiving agency or office for the salary and expenses of the employee for the period of assignment.

Sec. 710. None of the funds appropriated or otherwise made available to the Department of Agriculture or the Food and Drug Administration shall be used to transmit or otherwise make available to any non-Department of Agriculture or non-Department of Health and Human Services employee questions or responses to questions that are a result of information requested for the appropriations hearing process.

Sec. 711. None of the funds made available to the Department of Agriculture by this Act may be used to acquire new information technology systems or significant upgrades, as determined by the Office of the Chief Information Officer, without the approval of the Chief Information Officer and the concurrence of the Executive Information Technology Investment Review Board: Provided, That notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by this Act may be transferred to the Office of the Chief Information Officer without the prior approval of the Committees on Appropriations of both Houses of Congress: Provided further, That none of the funds available to the Department of Agriculture for information technology shall be obligated for projects over \$25,000 prior to receipt of written approval by the Chief Information Officer.

Sec. 712. <<NOTE: Notifications. Deadlines.>> (a) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in the current fiscal year, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds which--

- (1) creates new programs;
- (2) eliminates a program, project, or activity;
- (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted;
- (4) relocates an office or employees;
- (5) reorganizes offices, programs, or activities; or

[[Page 123 STAT. 555]]

(6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, or provided by previous Appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in the current fiscal year, or provided from any accounts in the Treasury of the United States derived

by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of \$500,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress; unless the Committees on Appropriations of both Houses of Congress are notified 15 days in advance of such reprogramming of funds.

(c) The Secretary of Agriculture or the Secretary of Health and Human Services shall notify the Committees on Appropriations of both Houses of Congress before implementing a program or activity not carried out during the previous fiscal year unless the program or activity is funded by this Act or specifically funded by any other Act.

Sec. 713. None of the funds appropriated by this or any other Act shall be used to pay the salaries and expenses of personnel who prepare or submit appropriations language as part of the President's Budget submission to the Congress of the United States for programs under the jurisdiction of the Appropriations Subcommittees on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies that assumes revenues or reflects a reduction from the previous year due to user fees proposals that have not been enacted into law prior to the submission of the Budget unless such Budget submission identifies which additional spending reductions should occur in the event the user fees proposals are not enacted prior to the date of the convening of a committee of conference for the fiscal year 2010 appropriations Act.

Sec. 714. None of the funds made available by this or any other Act may be used to close or relocate a Rural Development office unless or until the Secretary of Agriculture determines the cost effectiveness and/or enhancement of program delivery: Provided, That <<NOTE: Deadline. Notification. Reports.>> not later than 120 days before the date of the proposed closure or relocation, the Secretary notifies the Committees on Appropriation of the House and Senate, and the members of Congress from the State in which the office is located of the proposed closure or relocation and provides a report that describes the justifications for such closures and relocations.

Sec. 715. None of the funds made available to the Food and Drug Administration by this Act shall be used to close or relocate, or to plan to close or relocate, the Food and Drug Administration Division of Pharmaceutical Analysis in St. Louis, Missouri, outside the city or county limits of St. Louis, Missouri.

[[Page 123 STAT. 556]]

Sec. 716. There is hereby appropriated \$434,000, to remain available until expended, for the Denali Commission to address deficiencies in solid waste disposal sites which threaten to contaminate rural drinking water supplies.

Sec. 717. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out an environmental quality incentives program authorized by chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa, et seq.) in excess of \$1,067,000,000.

Sec. 718. None of the funds made available in fiscal year 2009 or

preceding fiscal years for programs authorized under the Food for Peace Act (7 U.S.C. 1691 et seq.) in excess of \$20,000,000 shall be used to reimburse the Commodity Credit Corporation for the release of eligible commodities under section 302(f)(2)(A) of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f-1): Provided, That any such funds made available to reimburse the Commodity Credit Corporation shall only be used pursuant to section 302(b)(2)(B)(i) of the Bill Emerson Humanitarian Trust Act.

Sec. 719. No funds shall be used to pay salaries and expenses of the Department of Agriculture to carry out or administer the program authorized by section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(1)).

Sec. 720. Funds made available under section 1240I and section 1241(a) of the Food Security Act of 1985 and section 524(b) of the Federal Crop Insurance Act (7 U.S.C. 1524(b)) in the current fiscal year shall remain available until expended to disburse obligations made in the current fiscal year.

Sec. 721. <<NOTE: News stories.>> Unless otherwise authorized by existing law, none of the funds provided in this Act, may be used by an executive branch agency to produce any prepackaged news story intended for broadcast or distribution in the United States unless the story includes a clear notification within the text or audio of the prepackaged news story that the prepackaged news story was prepared or funded by that executive branch agency.

Sec. 722. Notwithstanding any other provision of law, any former RUS borrower that has repaid or prepaid an insured, direct or guaranteed loan under the Rural Electrification Act, or any not-for-profit utility that is eligible to receive an insured or direct loan under such Act, shall be eligible for assistance under section 313(b)(2)(B) of such Act in the same manner as a borrower under such Act.

Sec. 723. None of the funds appropriated or otherwise made available by this or any other Act shall be used to pay the salaries and expenses of personnel to carry out a program under subsection (b)(2)(A)(i) of section 14222 of Public Law 110-246 in excess of \$1,071,530,000: Provided, That none of the funds made available in this Act or any other Act shall be used for salaries and expenses to carry out section 19(i)(1)(B) of the Richard B. Russell National School Lunch Act as amended by section 4304 of Public Law 110-246 in excess of \$16,000,000 until October 1, 2009: Provided further, of the unobligated balances under section 32 of the Act of August 24, 1935, \$293,530,000 are hereby rescinded.

Sec. 724. <<NOTE: Waiver authority.>> Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to make funding and other assistance available through the emergency watershed protection program under section 403 of the Agricultural Credit Act of 1978

[[Page 123 STAT. 557]]

(16 U.S.C. 2203) to repair and prevent damage to non-Federal land in watersheds that have been impaired by fires initiated by the Federal Government and shall waive cost sharing requirements for the funding and assistance.

Sec. 725. There is hereby appropriated \$3,497,000, to remain available until expended, for a grant to the National Center for Natural

Products Research for construction or renovation to carry out the research objectives of the natural products research grant issued by the Food and Drug Administration.

Sec. 726. There is hereby appropriated \$469,000, to remain available until expended, for the planning and design of construction of an agriculture pest facility in the State of Hawaii.

Sec. 727. None of the funds made available in this Act may be used to establish or implement a rule allowing poultry products to be imported into the United States from the People's Republic of China.

Sec. 728. There is hereby appropriated \$794,000 to the Farm Service Agency to carry out a pilot program to demonstrate the use of new technologies that increase the rate of growth of re-forested hardwood trees on private non-industrial forests lands, enrolling lands on the coast of the Gulf of Mexico that were damaged by Hurricane Katrina in 2005.

Sec. 729. None of the funds made available to the Department of Agriculture in this Act may be used to implement the risk-based inspection program in the 30 prototype locations announced on February 22, 2007, by the Under Secretary for Food Safety, or at any other locations, until the USDA Office of Inspector General has provided its findings to the Food Safety and Inspection Service and the Committees on Appropriations of the House of Representatives and the Senate on the data used in support of the development and design of the risk-based inspection program and FSIS has addressed and resolved issues identified by OIG.

Sec. 730. <<NOTE: State listing.>> Notwithstanding any other provision of law, and until receipt of the decennial Census in the year 2010, the Secretary of Agriculture shall consider--

(1) the City of Palmview, Texas; the City of Pharr, Texas; the City of Hidalgo, Texas; the City of Alton, Texas; the City of La Joya, Texas; the City of Penitas, Texas; the City of Schertz, Texas; the City of Converse, Texas; the City of Cibolo, Texas; and the Township of Bern, Pennsylvania (including individuals and entities with projects within the cities), eligible for loans and grants funded through the Rural Business Program account;

(2) the County of Nueces, Texas (including individuals and entities with projects within the county), eligible under the Business and Industry Loan Guarantee Program for the purposes of financing a beef processing facility;

(3) the City of Asheboro, North Carolina (including individuals and entities with projects within the city), eligible for loans and grants funded through the Rural Community Facilities Program account;

(4) the City of Healdsburg, California; the City of Imperial, California; the City of Havelock, North Carolina; and the City of Newton, North Carolina (including individuals and entities with projects within the cities), eligible for loans and grants funded through the Rural Water and Waste Disposal Program account; and

[[Page 123 STAT. 558]]

(5) the City of Aptos, California (including individuals and entities with projects within the city), eligible for loans and grants funded under the housing programs of the Rural Housing Service.

Sec. 731. There is hereby appropriated \$2,347,000 for section 4404 of Public Law 107-171.

Sec. 732. Notwithstanding any other provision of law, there is hereby appropriated:

(1) \$1,877,000 of which \$1,408,000 shall be for a grant to the Wisconsin Department of Agriculture, Trade, and Consumer Protection, and \$469,000 shall be for a grant to the Vermont Agency of Agriculture, Foods, and Markets, as authorized by section 6402 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1621 note);

(2) \$338,000 for a grant to the Wisconsin Department of Agriculture, Trade and Consumer Protection; and

(3) \$94,000 for a grant to the Graham Avenue Business Improvement District in the State of New York.

Sec. 733. Section 382K(c) of the Consolidated Farm and Rural Development Act <<NOTE: 7 USC 2009aa-10. State listing.>> (7 U.S.C. 2009aa-10(c)) is repealed.

Sec. 734. Notwithstanding any other provision of law, the Natural Resources Conservation Service shall provide financial and technical assistance--

(1) through the Watershed and Flood Prevention Operations program for the Pocasset River Floodplain Management Project in the State of Rhode Island;

(2) through the Watershed and Flood Prevention Operations program to carry out the East Locust Creek Watershed Plan Revision in Missouri, including up to 100 percent of the engineering assistance and 75 percent cost share for construction cost of site RW1;

(3) through the Watershed and Flood Prevention Operations program to carry out the Little Otter Creek Watershed project in Missouri. The sponsoring local organization may obtain land rights by perpetual easements;

(4) through the Watershed and Flood Prevention Operations program to carry out the Churchill Woods Dam Removal project in DuPage County, Illinois;

(5) through the Watershed and Flood Prevention Operations program to carry out the Dunloup Creek Watershed Project in Fayette and Raleigh Counties, West Virginia;

(6) through the Watershed and Flood Prevention Operations program to carry out the Alameda Creek Watershed Project in Alameda County, California;

(7) through the Watershed and Flood Prevention Operations program to carry out the Colgan Creek Restoration project in Sonoma County, California;

(8) through the Watershed and Flood Prevention Operations program to carry out the Hurricane Katrina-Related Watershed Restoration project in Jackson County, Mississippi;

(9) through the Watershed and Flood Prevention Operations program to carry out the Lake George Watershed Protection project in Warren County, New York; and

(10) through the Watershed and Flood Prevention Operations program to carry out the Pidcock-Mill Creeks Watershed project in Bucks County, Pennsylvania.

Sec. 735. Section 17(r)(5) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(r)(5)) is amended--

- (1) by striking ``eight'' and inserting ``ten'';
- (2) by striking ``six'' and inserting ``eight''; and
- (3) by inserting ``Vermont, Maryland,'' after the first instance of ``States shall be''.

Sec. 736. Notwithstanding any other provision of law, for the purposes of a grant under section 412 of the Agricultural Research, Extension, and Education Reform Act of 1998, none of the funds in this or any other Act may be used to prohibit the provision of in-kind support from non-Federal sources under section 412(e)(3) in the form of unrecovered indirect costs not otherwise charged against the grant, consistent with the indirect rate of cost approved for a recipient.

Sec. 737. <<NOTE: Meats and meat products. Argentina.>> None of the funds made available by this Act may be used to pay the salaries and expenses of any individual to conduct any activities that would allow the importation into the United States of any ruminant or swine, or any fresh (including chilled or frozen) meat or product of any ruminant or swine, that is born, raised, or slaughtered in Argentina: <<NOTE: Reports.>> Provided, That this section shall not prevent the Secretary from conducting all necessary activities to review this proposal and issue a report on the findings to the Committees on Appropriations of the House and Senate: <<NOTE: Time period. Reports.>> Provided further, That this section shall only have effect until the Secretary of Agriculture has reviewed the domestic animal health aspects of the pending proposal to allow the importation of such products into the United States and has issued a report to the Committees on the findings of such review.

Sec. 738. Except as otherwise specifically provided by law, unobligated balances remaining available at the end of the fiscal year from appropriations made available for salaries and expenses in this Act for the Farm Service Agency and the Rural Development mission area, shall remain available through September 30, 2010, for information technology expenses.

Sec. 739. None of the funds made available in this Act may be used to pay the salaries or expenses of personnel to--

- (1) inspect horses under section 3 of the Federal Meat Inspection Act (21 U.S.C. 603);
- (2) inspect horses under section 903 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1901 note; Public Law 104-127); or
- (3) implement or enforce section 352.19 of title 9, Code of Federal Regulations.

This division may be cited as the ``Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2009''.