

vided, That \$8,200,000 of the total amount appropriated under this heading shall not be available for obligation until the Commodity Futures Trading Commission submits an expenditure plan for fiscal year 2010 to the Committees on Appropriations of the House of Representatives and the Senate.

#### FARM CREDIT ADMINISTRATION

##### LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed \$54,500,000 (from assessments collected from farm credit institutions, including the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249: Provided, That this limitation shall not apply to expenses associated with receiverships.

#### TITLE VII

##### GENERAL PROVISIONS

###### (INCLUDING RESCISSIONS 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 204 passenger motor vehicles, of which 170 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. Section 10101 of division B of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, (Public Law 110-329) is amended in subsection (b) by inserting at the end the following: "In carrying out this section, the Secretary may transfer funds into existing or new accounts as determined by the Secretary."

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 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: Provided further, That of annual income amounts in the Working Capital Fund of the Department of Agriculture allocated for the National Finance Center, the Secretary may reserve not more than 4 percent for the replacement or acquisi-

*tion of capital equipment, including equipment for the improvement and implementation of a financial management plan, information technology, and other systems of the National Finance Center or to pay any unforeseen, extraordinary cost of the National Finance Center: Provided further, That none of the amounts reserved shall be available for obligation unless the Secretary submits notification of the obligation to the Committees on Appropriations of the House of Representatives and the Senate: Provided further, That the limitation on the obligation of funds pending notification to Congressional Committees shall not apply to any obligation that, as determined by the Secretary, is necessary to respond to a declared state of emergency that significantly impacts the operations of the National Finance Center; or to evacuate employees of the National Finance Center to a safe haven to continue operations of the National Finance Center.*

*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 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 or any other 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. (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*
- (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, the Secretary of Health and Human Services, or the Chairman of the Commodity Futures Trading Commission 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 2011 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 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.*

*SEC. 716. There is hereby appropriated \$499,000 for any authorized Rural Development program purpose, in communities suffering from extreme outmigration and situated in areas that were designated as part of an Empowerment Zone pursuant to section 111 of the Community Renewal Tax Relief Act of 2000 (as contained in appendix G of Public Law 106-554).*

*SEC. 717. None of the funds made available in fiscal year 2010 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. 718. 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. 719. 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 fis-*

cal year shall remain available until expended to disburse obligations made in the current fiscal year.

*SEC. 720. 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. 721. 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 the following:*

*(1) An Environmental Quality Incentives Program as authorized by sections 1241–240H of the Food Security Act of 1985, as amended (16 U.S.C. 3839aa–3839aa(8)), in excess of \$1,180,000,000;*

*(2) a program authorized by section 14(h)(1) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012(h)(1)); and*

*(3) a program under subsection (b)(2)(A)(ii) of section 14222 of Public Law 110–246 in excess of \$1,123,000,000: 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)(C) of the Richard B. Russell National School Lunch Act as amended by section 4304 of Public Law 110–246 in excess of \$25,000,000, including the transfer of funds under subsection (c) of section 14222 of Public Law 110–246, until October 1, 2010: Provided further, That \$76,000,000 made available on October 1, 2010, to carry out section 19(i)(1)(C) of the Richard B. Russell National School Lunch Act as amended by section 4304 of Public Law 110–246 shall be excluded from the limitation described in subsection (b)(2)(A)(iii) of section 14222 of Public Law 110–246: Provided further, That all unobligated balances under section 32 of the Act of August 24, 1935, available as of September 30, 2009, are hereby rescinded.*

*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. There is hereby appropriated \$2,600,000, to remain available until expended, for the construction, interim operations, and necessary demolition needs for establishment of an agricultural pest facility in the State of Hawaii.*

*SEC. 724. There is hereby appropriated \$4,000,000 to the Secretary of Agriculture to award grant(s) to develop and field test new food products designed to improve the nutritional delivery of humanitarian food assistance provided through the McGovern-Dole (section 3107 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o–1)) and the Food for Peace title II (7 U.S.C. 1691 et seq.) programs: Provided, That the Secretary shall use the authorities provided under the Research, Education, and Economics mission area of the Department in awarding such grant(s), with pri-*

ority given to proposals that demonstrate partnering with and in-kind support from the private sector.

SEC. 725. 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. 726. Notwithstanding any other provision of law, and until receipt of the decennial census for the year 2010, the Secretary of Agriculture—

(1) shall consider—

(A) the unincorporated area of Los Osos, California, the city of Imperial, California, and the Harrisville Fire District, Rhode Island, to be rural areas for the purposes of eligibility for Rural Utilities Service water and waste disposal loans and grants;

(B) the incorporated community of Thermalito in Butte County, California, (including individuals and entities with projects within the community) eligible for loans and grants funded under the housing programs of the Rural Housing Service;

(C) the city of Lumberton, North Carolina, and the city of Sanford, North Carolina (including individuals and entities with projects within the city) eligible for loans and grants funded through the Rural Community Facilities Program Account; and

(D) the city of Nogales, Arizona (including individuals and entities with projects within the city) eligible for loans and grants funded through the housing programs of the Rural Housing Service; and

(2) may fund Rural Community Facility Program projects of the Rural Housing Service and Water and Waste Disposal Program projects of the Rural Utilities Service for communities and municipal districts and areas in Connecticut, Massachusetts, and Rhode Island that filed applications for such projects with the appropriate Rural Development field office of the Department of Agriculture prior to August 1, 2009, and that such projects were determined by the field office to be eligible for funding.

SEC. 727. There is hereby appropriated \$3,000,000 for section 4404 of Public Law 107-171.

SEC. 728. Notwithstanding any other provision of law, there is hereby appropriated:

(1) \$3,000,000 of which \$2,000,000 shall be for a grant to the Wisconsin Department of Agriculture, Trade, and Consumer Protection, and \$1,000,000 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) \$350,000 for a grant to the Wisconsin Department of Agriculture, Trade and Consumer Protection;

(3) \$1,000,000 shall be for development of a prototype for a national carbon inventory and accounting system for forestry and agriculture to be awarded under full and open competition;

(4) \$1,000,000 for the International Food Protection Training Institute; and

(5) \$200,000 for the Center for Foodborne Illness Research and Prevention.

SEC. 729. Notwithstanding any other provision of law, the Natural Resources Conservation Service shall provide financial and technical assistance through the Watershed and Flood Prevention Operations program to carry out—

(1) the Alameda Creek Watershed Project in Alameda County, California;

(2) the Hurricane Katrina-Related Watershed Restoration project in Jackson County, Mississippi;

(3) the Pidcock-Mill Creeks Watershed project in Bucks County, Pennsylvania;

(4) the Farmington River Restoration project in Litchfield County, Connecticut;

(5) the Lake Oswawana Management and Restoration project in Putnam County, New York;

(6) the Richland Creek Reservoir in Paulding County, Georgia;

(7) the Pocasset River Floodplain Management Project in the State of Rhode Island;

(8) 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;

(9) the Little Otter Creek Watershed project in Missouri. The sponsoring local organization may obtain land rights by perpetual easements;

(10) the DuPage County Watershed project in the State of Illinois;

(11) the Dunloup Creek Watershed Project in Fayette and Raleigh Counties, West Virginia;

(12) the Dry Creek Watershed project in the State of California; and

(13) the Upper Clark Fork Watershed project in the State of Montana.

SEC. 730. Section 17(r)(5) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(r)(5)) is amended—

(1) by inserting “the District of Columbia and” after the first instance of “institutions located in”;

(2) by striking “ten” and inserting “thirteen”;

(3) by striking “eight” and inserting “eleven”; and

(4) by inserting “Connecticut, Nevada, Wisconsin,” after the first instance of “States shall be”.

SEC. 731. 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. 732. 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, 2011, for information technology expenses.

SEC. 733. The Secretary of Agriculture may authorize a State agency to use funds provided in this Act to exceed the maximum amount of liquid infant formula specified in 7 C.F.R. 246.10 when issuing liquid infant formula to participants.

SEC. 734. (a) CHILD NUTRITION PROGRAMS.—Section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) is amended by adding at the end the following:

“(14) COMBAT PAY.—

“(A) DEFINITION OF COMBAT PAY.—In this paragraph, the term ‘combat pay’ means any additional payment under chapter 5 of title 37, United States Code, or otherwise designated by the Secretary to be appropriate for exclusion under this paragraph, that is received by or from a member of the United States Armed Forces deployed to a designated combat zone, if the additional pay—

“(i) is the result of deployment to or service in a combat zone; and

“(ii) was not received immediately prior to serving in a combat zone.

“(B) EXCLUSION.—Combat pay shall not be considered to be income for the purpose of determining the eligibility for free or reduced price meals of a child who is a member of the household of a member of the United States Armed Forces.”.

(b) SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.—Section 17(d)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

“(C) COMBAT PAY.—For the purpose of determining income eligibility under this section, a State agency shall exclude from income any additional payment under chapter 5 of title 37, United States Code, or otherwise designated by the Secretary to be appropriate for exclusion under this subparagraph, that is received by or from a member of the United States Armed Forces deployed to a designated combat zone, if the additional pay—

“(i) is the result of deployment to or service in a combat zone; and

“(ii) was not received immediately prior to serving in a combat zone.”.

SEC. 735. There is hereby appropriated \$1,000,000 for the grant program for the purpose of obtaining and adding to an anhydrous ammonia fertilizer nurse tank a substance to reduce the amount of methamphetamine that can be produced from any anhydrous am-

monia removed from the nurse tank as authorized by section 14203 of the Food, Conservation, and Energy Act of 2008 (21 U.S.C. 864a).

SEC. 736. None of the funds appropriated or otherwise made available by this Act may be used for first-class travel by the employees of agencies funded by this Act in contravention of sections 301–10.122 through 301–10.124 of title 41, Code of Federal Regulations.

SEC. 737. Agencies with jurisdiction for carrying out international food assistance programs under the jurisdiction of this Act, including title II of the Food for Peace Act and the McGovern-Dole International Food for Education Program, shall—

(1) provide to the Committees on Appropriations of the House and the Senate no later than May 1, 2010, the following:

(A) estimates on cost-savings and programmatic efficiencies that would result from increased use of pre-positioning of food aid commodities and processes to ensure such cargoes are appropriately maintained to prevent spoilage;

(B) estimates on cost-savings and programmatic efficiencies that would result from the use of longer-term commodity procurement contracts, the proportional distribution of commodity purchases throughout the fiscal year, longer-term shipping contracts, contracts which include shared-risk principles, and adoptions of other commercially acceptable contracting practices;

(C) estimates on costs of domestic procurement of commodities, domestic inland transportation of food aid commodities, domestic storage (including loading and unloading), foreign storage (including loading and unloading), foreign inland transportation, and ocean freight (including ocean freight as adjusted by the ocean freight differential reimbursement provided by the Secretary of Transportation), and costs relating to allocation and distribution of commodities in recipient countries;

(D) information on the frequency of delays in transporting food aid commodities, the cause or purpose of any delays (including how those delays are tracked, monitored and resolved), missed schedules by carriers and non-carriers (and resulting program costs due to such delays, including impacts to program beneficiaries);

(E) information on the methodologies to improve inter-agency coordination between host governments, the World Food Program, and non-governmental organization to develop more consistent estimates of food aid needs and the number of intended recipients to appropriately inform the purchases of commodities and in order to appropriately plan for commodity procurement for food aid programs;

(2) provide the matter described under subsection (1) of this section in the form of a consensus report under the signatures of the Secretaries of Agriculture, State, and Transportation; and

(3) estimates and cost savings analysis for this section shall be derived from periods representative of normal program operations.

*SEC. 738. There is hereby appropriated \$250,000, to remain available until expended, for a grant to the Kansas Farm Bureau Foundation for work-force development initiatives to address out-migration in rural areas.*

*SEC. 739. There is hereby appropriated \$800,000 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. 740. (a) The Commissioner of Food and Drugs shall establish within the Food and Drug Administration a review group which shall recommend to the Commissioner of Food and Drugs appropriate preclinical, trial design, and regulatory paradigms and optimal solutions for the prevention, diagnosis, and treatment of rare diseases: Provided, That the Commissioner of Food and Drugs shall appoint individuals employed by the Food and Drug Administration to serve on the review group: Provided further, That members of the review group shall have specific expertise relating to the development of articles for use in the prevention, diagnosis, or treatment of rare diseases, including specific expertise in developing or carrying out clinical trials.*

*(b) The Commissioner of Food and Drugs shall establish within the Food and Drug Administration a review group which shall recommend to the Commissioner of Food and Drugs appropriate preclinical, trial design, and regulatory paradigms and optimal solutions for the prevention, diagnosis, and treatment of neglected diseases of the developing world: Provided, That the Commissioner of Food and Drugs shall appoint individuals employed by the Food and Drug Administration to serve on the review group: Provided further, That members of the review group shall have specific expertise relating to the development of articles for use in the prevention, diagnosis, or treatment of neglected diseases of the developing world, including specific expertise in developing or carrying out clinical trials: Provided further, That for the purposes of this section the term "neglected disease of the developing world" means a tropical disease, as defined in section 524(a)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360n(a)(3)).*

*(c) The Commissioner of Food and Drugs shall—*

*(1) submit, not later than 1 year after the date of the establishment of review groups under subsections (a) and (b), a report to Congress that describes both the findings and recommendations made by the review groups under subsections (a) and (b);*

*(2) issue, not later than 180 days after submission of the report to Congress under paragraph (1), guidance based on such recommendations for articles for use in the prevention, diagnosis, and treatment of rare diseases and for such uses in neglected diseases of the developing world; and*

*(3) develop, not later than 180 days after submission of the report to Congress under paragraph (1), internal review standards based on such recommendations for articles for use in the prevention, diagnosis, and treatment of rare diseases and for such uses in neglected diseases of the developing world.*

*SEC. 741. There is hereby appropriated \$2,600,000 to carry out section 1621 of Public Law 110–246 and \$3,000,000 to carry out section 1613 of Public Law 110–246.*

*SEC. 742. Of the unobligated balances provided pursuant to section 16(h)(1)(A) of the Food and Nutrition Act of 2008, \$11,000,000 is hereby rescinded.*

*SEC. 743. (a) None of the funds made available by this Act may be used to promulgate or implement a poultry products inspection rule allowing processed poultry or processed poultry products to be imported into the United States from the People’s Republic of China unless the Secretary of Agriculture formally notifies Congress that the Department will—*

*(1) not provide any preferential consideration to any application by the People’s Republic of China for authorization to export poultry or poultry products to the United States;*

*(2) conduct audits of inspection systems and on-site reviews of slaughter and processing facilities, laboratories and other control operations before any Chinese facilities are certified as eligible to ship poultry or poultry products to the United States and, in subsequent years, to conduct such audits and reviews at least once annually or more frequently as the Secretary determines necessary;*

*(3) implement a significantly increased level of port of entry re-inspection;*

*(4) establish and conduct a formal and expeditious information sharing program with other countries importing processed poultry or processed poultry products from China that have conducted audits and plant inspections;*

*(5) report to the House and Senate Committees on Appropriations within 120 days of the date of enactment of this Act, and every 180 days thereafter for an indefinite period, with respect to the promulgation or implementation of any poultry products inspection rule authorizing the People’s Republic of China to export poultry or poultry products to the United States, including—*

*(A) actions taken or to be taken by the Secretary, including new audits and on-site reviews, to implement any poultry products inspection rule authorizing the People’s Republic of China to export processed poultry or processed poultry products to the United States;*

*(B) actions taken or to be taken by the Secretary, including new audits and on-site reviews, to determine whether the poultry inspection system of the People’s Republic of China achieves a level of sanitary protection equivalent to that achieved under United States standards;*

*(C) actions taken or to be taken by the Secretary to determine whether the administration and enforcement of the poultry and poultry products inspection system of the People’s Republic of China ensures that it achieves a level of sanitary protection equivalent to that achieved under United States standards;*

*(D) the level of port of entry re-inspections to be conducted on processed poultry and processed poultry products offered for importation into the United States from the People’s Republic of China; and*

(E) a work plan incorporating any understandings or agreements between FSIS and relevant authorities of the People's Republic of China with respect to carrying out the Secretary's assessment of the equivalency of the poultry products inspection system of the People's Republic of China;

(6) make publicly available, no later than 30 days from the date they are finalized, the reports of any new audits and on-site reviews conducted by the Secretary, and, in addition, when such audit or review is being conducted to determine whether the People's Republic of China's poultry inspection system achieves a level of sanitary protection equivalent to that achieved under United States standards, to make the final report of such audit or review publicly available no later than 30 days prior to the publication of any notice of proposed rule-making for such determination; and

(7) make publicly available a list of facilities in the People's Republic of China certified to export poultry or poultry products to the United States and to notify the House and Senate Committees on Appropriations if the number of facilities certified by the People's Republic of China exceeds ten.

(b) None of the funds made available by this Act may be used to promulgate any proposed or final rule allowing the importation into the United States of poultry slaughtered or poultry products produced from poultry slaughtered in the People's Republic of China unless such rule is promulgated in accordance with the procedures for significant rules specified in Executive Order 12866.

(c) This section shall be applied in a manner consistent with United States obligations under its international trade agreements.

SEC. 744. 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.

SEC. 745. (a) Section 531(g)(7)(F) of the Federal Crop Insurance Act (7 U.S.C. 1531(g)(7)(F)) is amended—

(1) in the matter preceding clause (i), by inserting “(including multiyear assistance)” after “assistance”; and

(2) in clause (i), by inserting “or multiyear production losses” after “a production loss”.

(b) Section 901(g)(7)(F) of the Trade Act of 1974 (19 U.S.C. 2497(g)(7)(F)) is amended—

(1) in the matter preceding clause (i), by inserting “(including multiyear assistance)” after “assistance”; and

(2) in clause (i), by inserting “or multiyear production losses” after “a production loss”.

SEC. 746. (a) DEPARTMENT OF AGRICULTURE ASSISTANCE DURING PANDEMIC EMERGENCY.—During fiscal year 2010, in any case in which a school is closed for at least 5 consecutive days during a pandemic emergency designation, each household containing at least 1 member who is an eligible child attending the school shall

be eligible to receive assistance pursuant to a State agency plan approved under subsection (b).

(b) *ASSISTANCE.*—To carry out this section, the Secretary of Agriculture may approve State agency plans for temporary emergency standards of eligibility and levels of benefits under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) for households with eligible children. Plans approved by the Secretary may provide for supplemental allotments to households receiving benefits under such Act, and issuances to households not already receiving benefits. Such level of benefits shall be determined by the Secretary in an amount not less than the value of meals at the free rate over the course of 5 school days for each eligible child in the household.

(c) *MINIMUM CLOSURE REQUIREMENT.*—The Secretary of Agriculture shall not provide assistance under this section in the case of a school that is closed for less than 5 consecutive days.

(d) *USE OF EBT SYSTEM.*—A State agency may provide assistance under this section through the EBT card system established under section 7 of the Food and Nutrition Act of 2008 (7 U.S.C. 2016).

(e) *RELEASE OF INFORMATION.*—Notwithstanding any other provision of law, the Secretary of Agriculture may authorize State educational agencies and school food authorities administering a school lunch program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) to release to appropriate officials administering the supplemental nutrition assistance program such information as may be necessary to carry out this section.

(f) *WAIVERS.*—To facilitate implementation of this section, the Secretary of Agriculture may approve waivers of the limits on certification periods otherwise applicable under section 3(f) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(f)), reporting requirements otherwise applicable under section 5(f) of such Act (7 U.S.C. 2014(f)), and other administrative requirements otherwise applicable to State agencies under such Act.

(g) *FUNDING.*—The Secretary of Agriculture shall use funds made available under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) to fund, with the exception of the commodities described in subsection (h), benefits provided under this section.

(h) *AVAILABILITY OF COMMODITIES.*—During fiscal year 2010, the Secretary of Agriculture may utilize funds appropriated under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to purchase commodities for emergency distribution in any area of the United States during a pandemic emergency designation.

(i) *DEFINITIONS.*—In this section:

(1) The term “eligible child” means a child (as defined in section 12(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)) who, if not for the closure of the school attended by the child during a pandemic emergency designation and due to concerns about an influenza pandemic, would receive free or reduced price school meals under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) at the school.

(2) The term “pandemic emergency designation” means the declaration—

(A) of a public health emergency, based on pandemic influenza, by the Secretary of Health and Human Services

under section 319 of the Public Health Service Act (42 U.S.C. 247d); or

(B) of a domestic emergency, based on pandemic influenza, by the Secretary of Homeland Security.

(3) The term “school” has the meaning given the term in section 12(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)).

SEC. 747. Specific projects contained in the report of the Committee on Appropriations of the House of Representatives accompanying this Act (H. Rept. 111–181) that are considered congressional earmarks for purposes of clause 9 of rule XXI of the Rules of the House of Representatives, when intended to be awarded to a for-profit entity, shall be awarded under a full and open competition.

SEC. 748. (a) There is hereby appropriated \$350,000,000 of which \$60,000,000 is provided for purchases of cheese and other dairy products under 7 U.S.C. 2036(a) and \$290,000,000 is provided to the Secretary of Agriculture to assist dairy producers under section 10104 of Public Law 107–171.

(b)(1) REGULATIONS.—The Secretary of Agriculture may promulgate such regulations as are necessary to implement this section.

(2) PROCEDURE.—The promulgation of the implementing regulations and the administration of this section shall be made without regard to—

(A) the notice and comment provisions of section 553 of title 5, United States Code;

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(3) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary of Agriculture shall use the authority provided under section 808 of title 5, United States Code.

SEC. 749. (a) Section 6(e)(1)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(e)(1)(B)) is amended by striking “2009” and inserting “2010”.

(b) Section 9(f)(5) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(f)(5)) is amended by striking “2009” and inserting “2010”.

(c)(1) Section 9(h)(3) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(h)(3)) is amended by striking “2009” and inserting “2010”.

(2) Section 9(h)(4) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(h)(4)) is amended by striking “2009” and inserting “2010”.

(d) Section 18(h)(5) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(h)(5)) is amended by striking “2009” and inserting “2010”.

(e) Section 21(g)(1)(A)(ii) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b–1(g)(1)(A)(ii)) is amended by striking “and October 1, 2008” and inserting “October 1, 2008, and October 1, 2009”.

(f) Section 26(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769g(d)) is amended by striking “2009” and inserting “2010”.

(g)(1) From the funds made available under paragraph (5), the Secretary shall carry out demonstration projects to develop and test methods of providing access to food for children in urban and rural areas during the summer months when schools are not in regular session to—

(A) reduce or eliminate the food insecurity and hunger of children; and

(B) improve the nutritional status of children.

(2) For purposes of this subsection, the term “children” means low-income children, as specified by the Secretary.

(3)(A) From the funds made available under paragraph (5), the Secretary shall provide for an independent evaluation of the demonstration projects carried out under this subsection, which shall use rigorous methodologies, including—

(i) random assignment of children or schools, where practicable; or

(ii) if random assignment of children or schools is not practicable, quasi-experimental or other methods that are capable of producing scientifically valid information regarding which projects are effective in achieving the purposes described in paragraph (1).

(B)(i) Not later than December 31, 2010, and each December 31 thereafter until the completion of the last evaluation conducted under subparagraph (A) the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes—

(I) the status of each demonstration project carried out under this subsection; and

(II) the results of the evaluations conducted under subparagraph (A) for the previous fiscal year.

(ii) Not later than 120 days after the completion of the last evaluation conducted under subparagraph (A), the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that includes recommendations on how to improve children’s access to food during the summer months when school is not in regular session.

(4) The Secretary may use funds made available under paragraph (5) to pay—

(A) participant benefits;

(B) the added administrative expenses incurred by participating organizations as a result of participating in a project under this subsection;

(C) costs associated with outreach to potential participants and potential sponsoring organizations; and

(D) costs associated with soliciting, administering, monitoring, and evaluating each demonstration project carried out under this subsection.

(5)(A) On October 1, 2009, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer

to the Secretary to carry out this subsection \$85,000,000, to remain available until expended.

(B) The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.

(h)(1)(A) From the funds made available under subparagraph (C), the Secretary shall provide assistance through grants to State agencies administering the National School Lunch Program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) with the lowest rates of children certified for free meals pursuant to paragraphs (4) and (5) of section 9(b) of such Act (42 U.S.C. 1758(b)(4); 1758(b)(5)) for the purpose of improving such rates.

(B) Under the terms and conditions established by the Secretary, a State receiving grant funds under this subsection may use such funds to pay costs related to improving the rate of direct certification in such State, including the costs related to—

- (i) making technology improvements;
- (ii) providing technical assistance to local educational agencies;
- (iii) implementing a new or revised direct certification system in such State and in the local educational agencies of such State; and
- (iv) using multiple public means tested benefits programs for the purpose of direct certification.

(C)(i) On October 1, 2009, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this paragraph \$22,000,000, to remain available until expended.

(ii) The Secretary shall be entitled to receive, shall accept, and shall use to carry out this paragraph the funds transferred under clause (i), without further appropriation.

(2)(A) From the funds made available under subparagraph (B), the Secretary shall provide technical assistance to assist States receiving grants under paragraph (1), and other States, as appropriate, in improving the rates of direct certification.

(B)(i) On October 1, 2009, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this paragraph \$3,000,000, to remain available until expended.

(ii) The Secretary shall be entitled to receive, shall accept, and shall use to carry out this paragraph the funds transferred under clause (i), without further appropriation.

(i)(1) From the funds made available under paragraph (4), in carrying out the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786 et seq.) (in this subsection referred to as the “program”) during fiscal year 2010, the Secretary shall provide performance bonus payments to State agencies that demonstrate—

(A) the highest proportion of breastfed infants, as compared to other State agencies participating in the program; or

(B) the greatest improvement in proportion of breastfed infants, as compared to other State agencies participating in the program.

(2) In providing performance bonus payments to State agencies under this subsection, the Secretary shall consider a State agency's proportion of participating fully breastfed infants.

(3) A State agency that receives a performance bonus under paragraph (1)—

(A) shall treat the funds as program income; and

(B) may transfer the funds to local agencies for use in carrying out the program.

(4)(A) On October 1, 2009, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection \$5,000,000.

(B) The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.

(j)(1) From the funds made available under paragraph (5), the Secretary shall make payments to State educational agencies to award grants to eligible school food authorities for the purchase of equipment for schools under the jurisdiction of such authorities.

(2)(A) Payments under paragraph (1) shall be allocated to State educational agencies in a manner proportional with each agency's administrative expense allocation under section 7(a)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(2)).

(B) If a State educational agency does not accept or use the amounts made available under its allocation in accordance with this subsection, the Secretary shall reallocate such amounts to other State educational agencies, as the Secretary determines necessary.

(3)(A) Not later than 180 days after receiving an allocation under this subsection, a State educational agency shall award grants, on a competitive basis, to eligible school food authorities.

(B) For the purposes of this subsection, the term "eligible school food authority" means a school food authority—

(i) participating in the National School Lunch Program established under the Richard B. Russell National School Lunch Program (42 U.S.C. 1751 et seq.); and

(ii) that did not receive a grant for equipment assistance under the grant program carried out pursuant to the heading "Food and Nutrition Service Child Nutrition Programs" in title I of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

(C) To qualify to receive a grant under this subsection, an eligible school food authority shall—

(i) submit an application to a State educational agency at such time, in such manner, and containing such information as the State educational agency may require; or

(ii) have submitted an application to receive equipment assistance under the grant program carried out pursuant to the heading "Food and Nutrition Service Child Nutrition Programs" in title I of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

(D) In awarding grants to eligible school food authorities, a State shall give priority to each eligible school food authority whose application demonstrates that in providing equipment assistance to schools with funds received under this subsection, it will give priority to schools where not less than 50 percent of the enrolled stu-

dents are eligible for free or reduced price meals under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(E) Under the terms and conditions established by the Secretary, an eligible school food authority receiving a grant under this subsection shall use such funds to purchase equipment for schools under the jurisdiction of the school food authority—

(i) to improve the quality of school meals, consistent with the goals of the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341);

(ii) to improve the safety of food served in the school meal programs established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(iii) to improve the overall energy efficiency of school foodservice operations; or

(iv) for other purposes as established by the Secretary.

(4) A State educational agency receiving an allocation under this subsection may not use more than 5 percent of such allocation for administrative costs associated with awarding grants to eligible school food authorities in accordance with this subsection.

(5)(A) On October 1, 2009, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection \$25,000,000, to remain available until expended.

(B) The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.

(k)(1) The purpose of this subsection is to provide grants, on a competitive basis, to State agencies administering the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766) (referred to in this section as “the program”) for the purpose of improving the health and nutrition of children in child care settings.

(2) From the funds made available under paragraph (8), the Secretary shall award grants, on a competitive basis, to State agencies administering the program for the purpose of promoting health and nutrition improvement in child care settings.

(3) In awarding grants under this subsection, the Secretary shall give priority to State agencies administering projects under the program that carry out each of the authorized uses of funds described in paragraph (7).

(4) A State receiving a grant under this subsection shall use not less than 50 percent of such grant funds to award subgrants to institutions for the purpose of conducting the activities described in paragraph (6).

(5) For the purposes of this subsection, the term “institution” has the meaning given such term in section 17(a)(2) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(a)(2)).

(6) To be eligible to receive funds under this subsection, a State agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, which shall include—

(A) a plan to improve the quality of food provided in—

(i) child care centers; and

- (ii) family or group day care homes; and
- (B) a description of—
- (i) the procedures by which the State agency will use the grant received under this subsection to award subgrants to institutions; and
- (ii) the criteria that the State agency will use in awarding such subgrants.
- (7) In addition to such other activities as the Secretary determines to be appropriate, State agencies and institutions may use funds provided under this subsection for activities that—
- (A) promote nutrition and physical activity in child care settings and that reflect the recommendations of—
- (i) the most recent version of the Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341); and
- (ii) the most recent scientific knowledge;
- (B) provide technical assistance and training to sponsors and providers of child care centers and family or group day care homes in implementing State or local initiatives designed to improve the health and nutrition of children;
- (C) perform outreach campaigns on the State or local level that are designed to increase access to the program in underserved areas and populations; and
- (D) make innovative use of technology to provide training and education to promote the nutrition, physical activity, and health of children.
- (8)(A) On October 1, 2009, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary to carry out this subsection \$8,000,000, to remain available until expended.
- (B) The Secretary shall be entitled to receive, shall accept, and shall use to carry out this subsection the funds transferred under subparagraph (A), without further appropriation.
- (l) For purposes of this section, the term “Secretary” means the Secretary of Agriculture.

*This Act may be cited as the “Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010”.*

And the Senate agree to the same.

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*Managers on the Part of the House.*

HERB KOHL,  
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