

FY 2011 Continuing Resolution (CR) Appropriations Issues

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Note: Drafted language cites Sections 101 and 106 and assumes that Section 101 refers to the "authority and conditions" section and that Section 106 refers to the expiration date of the CR. Section 101 is assumed to include the following appropriations Acts:

- *Legislative Branch Appropriations Act, 2010 (Division A of Public Law 111-68);*
- *Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (Public Law 111-80).*
- *Department of Homeland Security Appropriations Act, 2010 (Public Law 111-83), including appropriations in this Act for Coast Guard Operating Expenses that were designated as being for overseas deployments and other activities pursuant to S. Con. Res. 13;*
- *Energy and Water Development and Related Agencies Appropriations Act, 2010 (Public Law 111-85);*
- *Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010 (Division A of Public Law 111-88);*
- *Divisions A, B, C, D, E, and F of the Consolidated Appropriations Act, 2010 (Public Law 111-117), including appropriations in Division B of the Act for Federal Bureau of Investigation Salaries and Expenses and Title IV of Division E of the Act for Military Construction Overseas Contingency Operations that were designated as being for overseas deployments and other activities pursuant to S. Con. Res. 13;*
- *The Department of Defense Appropriations Act, 2010 (Division A of Public Law 111-118), including Title IX for Overseas Contingency Operations Appropriations for Fiscal Year 2010;*
- *Chapter 3 of Title I of the Supplemental Appropriations Act, 2010 (Public Law 111-212) that includes appropriations for the Department of Defense–Military. Section 101 should exclude appropriations in this Chapter for Operation and Maintenance related to Haiti following the earthquake of January 12, 2010 and for the Port of Guam;*
- *The Military Construction portion of Chapter 9 of Title I of the Supplemental Appropriations Act, 2010 (Public Law 111-212);*
- *Appropriations in Chapter 10 of Title 1 of the Supplemental Appropriations Act, 2010 (Public Law 111-212) for the Department of State and U.S. Agency for International Development only for operations in, assistance for, and oversight of operations and programs in Afghanistan, Pakistan and Iraq.*
- *Section 102(c) of Chapter 1 of Title I of the Supplemental Appropriations Act, 2010 (Public Law 111-212) that addresses guaranteed loans in the rural housing insurance fund; and*
- *Appropriation under the heading Department of Commerce, United States Patent and Trademark Office in the United States Patent and Trademark Office Supplemental Appropriations Act, 2010 (Public Law 111-224).*

Unless specified otherwise, these anomalies are needed on October 1st, 2010, for a CR with an assumed duration of approximately three months (through December 24th). CRs of a different length may require updates to this list.

General

Appropriated Entitlement Programs

Sec. ____ . (a) For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2010, and for activities under the Food and Nutrition Act of 2008, activities shall be continued at the rate to maintain program levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2010, to be continued through the date specified in section 106(3).

(b) Notwithstanding section 106, obligations for mandatory payments due on or about the first day of any month that begins after October 2010 but not later than 30 days after the date specified in section 106(3) may continue to be made, and funds shall be available for such payments.

Language is needed to ensure that funding for appropriated entitlement programs will continue at the rate to maintain program levels under current law and to ensure benefit payments are issued in a timely manner. Appropriated entitlement programs include, but are not limited to: Grants to States for Medicaid; Payments to States for Child Support Enforcement and Family Support Programs; Social Services Block Grant; Payments to States for Foster Care and Adoption Assistance; Payments to Health Care Trust Funds; Supplemental Nutrition Assistance Program; Child Nutrition Programs; the Supplemental Security Income Program; readjustment benefits for veterans; and compensation, pension, and burial benefits to veterans and survivors.

National Intelligence Program (NIP), State, and International Assistance Waivers

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

Intelligence activities for the various NIP components (DOE; Treasury; State; DHS, Justice; DOD; and CIA) need specific authorization before funds can be obligated. In addition, in the absence of an authorization bill, State, USAID, and other agencies that operate under the authority of the Foreign Assistance Act also need waiver language that enables them to expend funds. Such language is routinely included in CRs and appropriations legislation.

Agriculture Subcommittee

USDA, Use of Farm Bill Authorized Funds for Program Administration

Sec. ____ . The authority provided by section 103 of the American Recovery and Reinvestment Act (Public Law 111-5) shall continue in effect through the date specified in section 106(3) of this joint resolution.

Language is needed to extend section 103 of the American Recovery and Reinvestment Act. This provision allows for the use of funds authorized in the Farm Bill for program administration by providing a Commodity Credit Corporation (CCC) exemption from the limitation on the total amount of allotments and fund transfers contained in Section 11 of the CCC Charter Act. This exemption expires at the end of FY 2010, and if extended, will allow the expenditure of approximately \$13 million in discretionary funds for program administration in the appropriated Salaries and Expenses accounts for the Foreign Agricultural Service, Farm Service Agency, Animal and Plant Health Inspection Service, and the Agricultural Marketing Service.

USDA, Continued Disbursement of Expired Funds in the Broadband Program

Sec. ____ . Appropriations to the Department of Agriculture made available in fiscal year 2005 to carry out section 601 of the Rural Electrification Act of 1936 (7 U.S.C. 950bb) for the cost of direct loans shall remain available through the date specified in 106(3) of this joint resolution to disburse valid obligations made in fiscal year 2005.

Language is needed to allow for continued disbursement of expired funds of Agriculture's Broadband program, as requested in general provision section 724 of the FY 2011 Budget. In the absence of this language, it is possible that Antideficiency Act violations could occur for fiscal year expiring loan obligations during the period of the CR. The anomaly provides that subsidy budget authority for Broadband Loans programs made available in fiscal year 2005 remain available until expended to cover valid obligations made in fiscal year 2005.

CFTC, Implementation of Wall Street Reform & Consumer Protection Act (in Financial Services Subcommittee in the Senate)

Sec. ____ . (a) Notwithstanding section 101, amounts are provided for "Commodity Futures Trading Commission—Commodity Futures Trading Commission" at a rate for operations of \$225,890,000.

(b) The funds provided by subsection (a) may be used to carry out new authorities provided to the Commodity Futures Trading Commission in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203).

Language is needed to allow for a rate for operations of \$225.9 million to provide resources to implement new authorities included in the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Administration is requesting an anomaly of \$13.3 million above the 2010 funding level for the period of the CR. These funds are required to begin implementing changes in existing information technology (IT) systems and develop new IT systems and business

solutions; and, to permit hiring, office space, and equipment for additional professional staff who are needed now in order for the Commission to comply with specific statutory obligations that must be met in the next twelve months, as well as to assume the many new responsibilities required by the Financial Reform legislation, once fully implemented. Explicit language is also needed to allow the Commodity Futures Trading Commission to initiate these activities since no appropriations, funds, or other authority was available during FY 2010. In addition, the Commission has hired significant new staff in FY 2010 to fulfill its ongoing program responsibilities, and will require increased resources in FY 2011 to support the full cost of the additional staff.

USAID, Reimbursement Authority for Haiti Funding, Title II Food for Peace

Sec. ____ . Funds appropriated by Public Law 111-212 under the heading "Food for Peace Title II Grants" may be used to reimburse obligations incurred for the purposes provided therein prior to enactment of such Act.

Language is needed to allow the U.S. Agency for International Development to use FY 2010 Title II Food for Peace supplemental funding provided in the FY 2010 Supplemental Appropriations Act (Public Law 111-212). Legislative language was inadvertently omitted from the FY 2010 Supplemental bill that would have allowed the \$150 million in funds appropriated for Title II as reimbursement for other emergency programs that have not received funding because earthquake needs in Haiti had to be addressed.

Commerce, Justice, Science Subcommittee

DOC, Broadband Technology Opportunities Program (BTOP), Staff Hired with Recovery Funds

Sec. ____ . Notwithstanding section 101, amounts are provided for "Department of Commerce—National Telecommunications and Information Administration—Broadband Technology Opportunities Program, Administrative Expenses" for administration of grants authorized by section 6001 of the American Recovery and Reinvestment Act of 2009 (ARRA) (Public Law 111-5) and section 106 of the Broadband Data Improvement Act (Public Law 110-385) and for the development and maintenance of the national broadband map authorized by section 6001 of the ARRA, at a rate for operations of \$23,700,000.

Language is needed to provide a rate for operations of \$24 million to continue administrative activities of BTOP. The Recovery Act created and funded BTOP at \$4.7 billion to provide grants to increase broadband availability and adoption. Currently, administration of the program is undertaken with Recovery Act funds. However, those funds expire at the end of FY 2010 and a CR would not automatically provide any funding because no funds were appropriated in FY 2010. The FY 2011 Budget includes \$24 million for administrative activities.

NASA, Transfer to DOC, DOL, and FAA to Spur Regional Economic Growth and Job Creation

Sec. ____ . From amounts provided to "National Aeronautics and Space Administration—Exploration" or to "National Aeronautics and Space Administration—Space Operations"

under section 101, \$35,000,000 shall be transferred to "Economic Development Assistance Programs, Economic Development Administration", Department of Commerce, to spur regional economic growth in the area around the Kennedy Space Center; \$5,000,000 shall be transferred to "Operations, Federal Aviation Administration", Department of Transportation, for commercial space activities; and up to \$45,000,000 shall be transferred to "Economic Development Assistance Programs, Economic Development Administration", Department of Commerce, to spur regional economic growth in other areas affected by job losses associated with programmatic changes in the "National Aeronautics and Space Administration—Exploration" account or in the "National Aeronautics and Space Administration—Space Operations" account; and up to \$15,000,000 shall be transferred to "Training and Employment Services, Employment and Training Administration", Department of Labor, for job training activities in other areas affected by job losses associated with programmatic changes in the "National Aeronautics and Space Administration—Exploration" account or the "National Aeronautics and Space Administration—Space Operations" account.

Language is needed to make up to \$100 million available at the beginning of FY 2011 to help soften the impact of job layoffs associated with Shuttle retirement. Although the final Space Shuttle flight will not occur until February 2011 at the earliest, NASA's workforce transition, retirement, and disposition plans continue to result in workers being laid off as the Shuttle components production is closed down. This anomaly request permits a transfer of CR funding from NASA's Exploration and Space Operations accounts to the Departments of Commerce (DOC) and Labor (DOL) to spur regional economic growth and job creation, and to the Federal Aviation Administration (FAA) for commercial space activities. Many of the activities supported by this CR anomaly will be occurring along the Florida Space Coast, but other regions impacted by the Shuttle retirement will also benefit.

Defense Subcommittee

Note: The following DOD anomalies will not be necessary if Section 101 includes Chapter 3 of Title I of the Supplemental Appropriations Act, 2010 (Public Law 111-212) and Title IX of the Department of Defense Appropriations Act, 2010 (Division A of Public Law 111-118), as is explicitly assumed in the description of Section 101 outlined above.

DOD, Authority to Use O&M Funds for Acquisition Items Up to \$500K in Iraq and Afghanistan

Sec. . Notwithstanding section 8033 of Public Law 111-118, amounts provided by section 101 to the Department of Defense for operation and maintenance may be obligated under the terms and conditions of section 303 of Public Law 111-212.

Language is needed to provide the authority for the Secretary of Defense to allow commanders in Iraq and Afghanistan to use Operation and Maintenance funds to acquire items up to \$500,000. The FY 2010 Supplemental Appropriations Act (section 303 of Public Law 111-212) provides this authority, which applies to Operation and Maintenance funds and expires on September 30, 2010. The FY 2010 Department of Defense Appropriations Act (section 8033 of Public Law 111-118) limits this authority to the normal threshold of \$250,000. The upper

threshold would therefore not be in effect without specific authority in the CR, which would increase the administrative burden on theater personnel and reduce the commanders' flexibility to respond quickly to requirements in theater.

DOD, Lift and Sustain Authority

Sec. ____ . The authority provided in section 9006 of Public Law 111-118 shall continue in effect through the date specified in section 106(3) of this joint resolution.

Language is needed to provide Lift and Sustain authority, which was most recently authorized by section 9006 of the FY 2010 Department of Defense Appropriations Act (Public Law 111-118) and expires on October 1, 2010. This authority allows DOD to provide transportation and sustainment support to more than 10,000 coalition forces in Afghanistan and Iraq. An interruption in DOD's ability to provide such support could undermine U.S. military operational effectiveness in Afghanistan at a time when U.S. and coalition forces are striving to implement the President's strategy in that country.

Energy and Water Subcommittee

DOE, NNSA, Weapons Activities Supporting the Nuclear Posture Review

Sec. ____ . Notwithstanding section 101, amounts are provided for "Department of Energy—Weapons Activities" at a rate for operations of \$7,008,835,000.

Language is needed to provide a rate for operations of \$7,009 million to support the recommendations of the Nuclear Posture Review (NPR) and support full funding for the weapons complex modernization. The President's FY 2011 Budget request of \$7,009 million for Weapons Activities reflected an increase of \$624 million (9.8 percent) over the FY 2010 enacted level to support the recommendations of the NPR.

Constraining the Weapons Activities account to the FY 2010 level during the CR will delay implementation of the programs supporting the NPR, including their connection with the New START treaty. An increase above the FY 2010 level in a CR is required to meet the time-sensitive NPR requirements, and without this anomaly the tightly knit set of schedules planned to support the Administration's and Congress' goals would be imperiled.

DOE, National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling

Sec. ____ . For necessary expenses of the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling established by, and in order to carry out activities under, Executive Order 13543, \$15,000,000, to remain available until September 30, 2011: Provided, That funds appropriated in this paragraph may be used to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act: Provided further, That Congress designates this amount as an emergency requirement for these specific purposes.

Language is needed to establish the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling account in the Department of Energy (DOE). In addition, this provision provides \$15 million in emergency funding for necessary expenses including personnel costs, authorized travel, research and investigation costs, reimbursement to Federal agencies for operational and logistical support, and other costs to carry out the mandate of the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling established by Executive Order 13543 of May 21, 2010.

Corps, Authority to Prevent Aquatic Nuisance Species in the Great Lakes

Sec. ____ . The authority provided by section 126 of Public Law 111-85, which continues in effect through the date specified in section 106(3) of this joint resolution, shall include the authority to undertake such modifications or emergency measures as the Secretary of the Army determines to be appropriate to prevent aquatic nuisance species from dispersing into the Great Lakes by way of any hydrologic connection between the Great Lakes and the Mississippi River.

Language is needed to expand the authority provided in Section 126 in the Corps of Engineers, General Provisions of the Energy and Water Development Appropriations Act, 2010 (Public Law 111-85). Section 126 allows the Assistant Secretary of the Army to implement emergency measures to prevent aquatic nuisance species (e.g., Asian carp) from bypassing an electric barrier system in the Chicago Sanitary and Ship Canal and from dispersing into the Great Lakes. This authority has been used three times for the construction of bypass barriers or similar activities. This provision would expand the authority to effectively address nuisance species from dispersing from any hydrologic connection between the Mississippi River and Great Lakes basins.

Financial Services Subcommittee

Treasury, Special Inspector General for the Troubled Asset Relief Program (SIGTARP)

Sec. ____ . Notwithstanding section 101, amounts are provided for "Department of the Treasury—Special Inspector General for the Troubled Asset Relief Program—Salaries and Expenses" at a rate for operations of \$43,400,000.

Language is needed to provide a rate for operations of \$43.4 million to cover mission critical services including payroll, Departmental Office support services, and other contractual requirements for SIGTARP. The SIGTARP's FY 2010 annual appropriation is \$23.3 million. The SIGTARP's full funding level for FY 2010 included \$20.1 million in no-year funds appropriated in the prior year in the Emergency Economic Stabilization Act of 2008 (Public Law 110-343) and available in FY 2010.

Treasury, Departmental Offices, Implementation of Wall Street Reform & Consumer Protection Act

Sec. ____ . (a) Notwithstanding section 101, amounts are provided for "Department of the Treasury—Departmental Offices—Salaries and Expenses" at a rate for operations of \$319,069,000.

(b) The funds provided by subsection (a) may be used to carry out new authorities provided to the Department of the Treasury in Titles I and V of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203).

Language is needed to provide a rate for operations of \$319 million to carry out the requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Due to the passage of Financial Regulatory Reform legislation and the ongoing need to respond to the financial crisis, Treasury is undertaking significant new responsibilities in 2010 and 2011. To carry out the requirements of the Act and to continue to respond to the financial crisis in a timely manner, the Office of Domestic Finance needs to continue hiring staff with the requisite skills and experience from the start of FY 2011. Explicit language is also needed to allow the Department to initiate these authorities since no appropriations, funds, or other authority was available during FY 2010.

SEC, Implementation of Wall Street Reform & Consumer Protection Act

Sec. ____ . (a) Notwithstanding section 101, amounts are provided for "Securities and Exchange Commission—Salaries and Expenses" at a rate for operations of \$1,136,300,000.

(b) The funds provided by subsection (a) may be used to carry out new authorities provided to the Securities and Exchange Commission in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203).

Language is needed to provide a rate for operations of \$1,136.3 million to carry out the requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act in addition to its ongoing duties in other areas. In order to do so in a timely manner, the agency needs to continue hiring staff with the requisite skills and experience from the start of FY 2011. The Securities and Exchange Commission (SEC) has hired significant new staff in FY 2010 to fulfill its ongoing program responsibilities and will require increased resources in 2011 to support the full cost of the additional staff. Additionally, the Act greatly expands SEC responsibilities and will require implementation of numerous new rules and studies in FY 2011. The SEC would need an estimated additional \$5.9 million above the FY 2010 level during the period of the CR. Explicit language is also needed to allow the Commission to initiate these authorities since no appropriations, funds, or other authority was available during FY 2010.

SBA, Disaster Loan Program Account, Administrative Expenses

Sec. ____ . Notwithstanding section 101, amounts are provided for "Small Business Administration, Disaster Loans Program Account" at a rate for operations of \$203,000,000: Provided, That of the amounts provided herein, up to \$1,000,000 is for the Office of Inspector General of the Small Business Administration for audits and reviews of disaster loan programs which shall be paid to the appropriations for the Office of the Inspector General; up to \$193,000,000 is for direct administrative expenses of loan making and servicing to carry out the direct loan program, which shall be paid to the appropriations for

Salaries and Expenses; and up to \$9,000,000 is for indirect administrative expenses for the direct loan program, which shall be paid to the appropriations for Salaries and Expenses.

Language is needed to provide a total rate for operations of \$203 million, the same level as the FY 2011 Budget request, for administration of the Office of Disaster Administration (ODA). The FY 2010 appropriation of \$77 million for ODA was artificially low as it was premised on a significant amount of carry-over authority (about \$100 million). Those unobligated balances were used in FY 2010 and are not available for FY 2011.

SBA, Insufficient Subsidy to Support the 7(a) Loan Program Activity

Sec. ____ . Notwithstanding section 101, amounts are provided for "Small Business Administration—Business Loans Program Account" for the cost (as defined in section 502 of the Congressional Budget Act of 1974) of guaranteed loans as authorized by section 7(a) of the Small Business Act, at a rate for operations of \$177,088,000.

Language is needed to provide the Small Business Administration (SBA) a rate for operations of \$177 million, which supports \$3.5 billion in loan activity during the period of the CR (\$15.0 billion annual rate). Both the FY 2010 and FY 2011 Budget estimates for the 7(a) guaranteed loan program were based on a \$17.5 billion loan activity level. However, the economic assumptions for FY 2011 are less favorable than FY 2010, which more than doubles the amount of subsidy needed to guarantee these loans. With expected carryover, SBA would have sufficient funds to support a \$17.5 billion activity level. The program is anticipated to require a somewhat higher subsidy rate than in the President's 2011 Budget because the request assumed enactment of a proposal to increase the maximum size of loans guaranteed under the program.

District of Columbia (D.C.) Local Funds

Sec. ____ . Notwithstanding any other provision of this joint resolution, except section 106, the District of Columbia may expend local funds for programs and activities under the heading "District of Columbia Funds" for such programs and activities under title IV of S. 3677 (111th Congress), as reported by the Senate Committee on Appropriations, at the rate set forth under "District of Columbia Funds" as included in the Fiscal Year 2011 Proposed Budget and Financial Plan submitted to the Congress by the District of Columbia on June 1, 2010.

Language is needed to exempt local D.C. funds from CR treatment and allow the District to spend funds collected through D.C. taxes.

Homeland Security Subcommittee

DHS, Chemical Facility Anti-Terrorism Standards (expires October 4th)

Sec. ____ . Section 550 of Public Law 109-295, as amended by section 550 of Public Law 111-83, shall be applied by substituting the date specified in section 106(3) of this joint resolution for "October 4, 2010".

Language is needed to allow the Department of Homeland Security (DHS) to retain its authority granted under Public Law 109-295, section 550 (as amended), and Chemical Facility Anti-terrorism Standards Regulations (6 CFR Part 27) to regulate facilities that present high levels of risk.

DHS, Pre-Disaster Mitigation Grant Program

Sec. ____ . Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "September 30, 2010".

Language is needed to extend the authority for the Federal Emergency Management Agency to provide technical and financial assistance to States and localities for pre-disaster hazard mitigation activities.

Interior and Environment Subcommittee

DOI, Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE)

Sec. ____ . (a) Notwithstanding section 101, amounts are provided for "Royalty and Offshore Minerals Management, Department of the Interior" at a rate for operations of \$450,000,000: Provided, That amounts provided herein from the general fund shall be reduced:

(1) in an amount not to exceed \$154,890,000, as receipts from increases to rates in effect on August 5, 1993, and from cost recovery fees are received, and

(2) in an amount not to exceed \$40,000,000, as non-refundable inspection fees, as provided in subsection (b), are collected.

(b) The Bureau of Ocean Energy Management, Regulation and Enforcement shall assess and collect, by the date specified in section 106(3), non-refundable inspection fees covering all of fiscal year 2011 from the designated operator for facilities subject to inspection by the Bureau under 43 U.S.C. 1348(c) that are above the waterline, except mobile offshore drilling units, and are in place at the start of fiscal year 2011, as follows:

(1) \$8,000 for each facility with no wells, but with processing equipment or gathering lines;

(2) \$13,000 for each facility with one to ten wells, with any combination of active or inactive wells; and

(3) \$24,000 for each facility with more than ten wells, with any combination of active or inactive wells.

Sec. ____ . Notwithstanding section 101, amounts are provided for "Oil Spill Research, Department of the Interior" at a rate for operations of \$14,923,000.

Sec. ____ . The Secretary of the Interior, after consultation with the relevant congressional committees, may implement a reorganization of the Bureau of Ocean Energy Management, Regulation and Enforcement and, as part of the reorganization, may make transfers pursuant to 31 U.S.C. 1531 and take other necessary administrative actions.

Sec. ____ . Of the prior year unobligated balances available in “Royalty and Offshore Minerals Management, Department of the Interior”, \$25,000,000 are hereby permanently cancelled.

Language is needed to provide a higher rate for operations (\$80 million over the FY 2010 enacted level) to allow for expanded management, regulation, and inspections of energy exploration and development activities on the Outer Continental Shelf. In the wake of the April 20, 2010, Deepwater Horizon oil spill incident in the Gulf of Mexico, the Department of the Interior (DOI) has identified the need to restructure its offshore energy management and revenue collection activities. On May 19, 2010, Secretary Salazar issued Secretarial Order No. 3299, which separates the responsibilities of the former Minerals Management Service, now renamed BOEMRE, into three entities – the Office of Natural Resources Revenue, the Bureau of Ocean Energy Management, and the Bureau of Safety and Environmental Enforcement. On July 14, 2010, the Department issued a detailed implementation report that sets aggressive timelines to complete the BOEMRE reorganization.

The BOEMRE reorganization will begin on October 1, 2010, and the significant components of the previously-announced transition from royalty-in-kind to royalty-in-value royalty collections will commence. As part of the reorganization, the Administration is proposing an associated increase from \$10 million to \$40 million in offshore inspection fees (set in the annual appropriations bills) to partially offset the increased agency costs and a cancellation of \$25 million in prior year unobligated balances. In addition, the provision will provide a higher rate for operations (\$9 million above the FY 2010 enacted level) for oil spill research to address key gaps brought to light by the Deepwater Horizon oil spill and the associated spill containment and response efforts.

DOI, Extension of Authority for Indian Probate Judges

Sec. ____ . The authority provided by section 108 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006, Public Law 109-54 (119 Stat. 522), shall continue in effect through the date specified in section 106(3) of this joint resolution.

Language is needed to extend the authority to use Indian probate judges (IPJs) to conduct hearings in Indian probate cases for Native Americans with assets held in trust by the Federal Government. Section 108 of the FY 2006 Interior Appropriations Act provided the Secretary of the Interior with this authority for fiscal years 2006 through 2010.

Seven of the 14 judges currently handling Indian probate cases were appointed under this authority (the other seven are administrative law judges (ALJs) appointed under the Administrative Procedure Act). ALJs are independent of their employing agency and are used to decide cases in which their agency has a direct stake. IPJs are regular GS employees, cost less than ALJs, and are easier to recruit and hire. In Indian probate cases, since the case is being handled as a service to a decedent's heir and the Department does not have a stake in the outcome, a lesser degree of independence is possible for the nearly 7,000 probate cases adjudicated annually. The IPJs have been very productive, and the Department's ability to continue using such judges is critical to the success of the process.

Labor, HHS, Education Subcommittee

HHS, Advanced Research and Development Funding Source

Sec. ____ . From funds transferred to the "Public Health and Social Services Emergency Fund, Department of Health and Human Services" account by Public Law 111-117 in the fourth paragraph under such heading, amounts shall be available through the date specified in section 106(3) of this joint resolution to support advanced research and development pursuant to section 319L of the PHS Act, at a rate for operations of \$305,000,000.

In the FY 2010 Consolidated Appropriations Act, Division D (Labor, Health and Human Services, and Education), the \$305 million appropriated for the Assistant Secretary for Preparedness and Response's (ASPR's) advanced research and development was financed through a transfer from funds appropriated in FY 2004 under the heading "Biodefense Countermeasures" in the Department of Homeland Security (DHS). The FY 2010 Appropriations Act also transferred all remaining balances from funds appropriated under the heading "Biodefense Countermeasures" from DHS to HHS, but did not expand the purpose of the funding beyond the purpose for which it was originally appropriated.

The FY 2011 policy is to continue to fund ASPR activities from the "Biodefense Countermeasures" monies. However, due to the transfer, these funds are now all within the HHS, Public Health and Social Services Emergency Fund (PHSSEF) account and are no longer housed at DHS. As a result, the transfer language in the FY 2010 Appropriations Act is not able to provide the appropriate mechanism to finance advanced research and development as a term and condition of the 2011 CR. The language needs to be clarified to instead make available, for the purposes of advanced research and development, \$305 million of the biodefense countermeasures funding (now housed in the PHSSEF at HHS) that is currently unavailable for that purpose.

HHS, Avoid Child Care Cliff

Sec. ____ . Notwithstanding section 101, amounts are provided for "Department of Health and Human Services—Administration for Children and Families—Payments to States for the Child Care and Development Block Grant" at a rate for operations of \$2,927,081,000.

Language is needed to provide a rate for operations of \$2,927 billion for the Child Care and Development Block Grant (CCDBG) to avoid the elimination of child care slots in some States. The American Recovery and Reinvestment Act of 2009 (ARRA) provided an additional \$2 billion to States for CCDBG. Since States have broad latitude in determining how they spend ARRA funds, the number of child care slots created is difficult to quantify, but the Department of Health and Human Services (HHS) estimates that States are serving about 220,000 children with ARRA funds. By the end of FY 2010, States will have obligated about 75 percent of ARRA funds overall, but some States have already run out of money and have begun eliminating slots. Oregon, for example, has announced that 4,600 families will lose slots on October 1. About \$1 billion would be required to avoid any drop-off in funding.

HHS, Health Workforce Enhancement Activities

Sec. _____. In addition to amounts otherwise provided by section 101, an additional amount is provided for “Department of Health and Human Services - Health Resources and Services Account” to increase the primary care health workforce under Titles III, VII, and VIII of the Public Health Service Act and section 5102 of Public Law 111-148, at a rate for operations of \$250,000,000.

Language is needed to provide \$250 million for the healthcare workforce. Without intervention, experts are projecting a shortage of primary care health providers to meet the demands of the newly insured under health reform. In FY 2010, the Administration took the first steps to address this problem by allocating \$271 million from the Affordable Care Act's Prevention and Public Health Fund to increase the number of primary care physicians, physician assistants, and nurse practitioners in the workforce by 2015. These investments need to be sustained in 2011.

HHS, HRSA National Cord Blood Inventory (NCBI) Authority to Obligate

Sec. ____ . Section 2(e)(1)(B) of the Stem Cell Therapeutic and Research Act (Public Law 109-129) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "September 30, 2010".

Language is needed to extend the authority for the NCBI to obligate contracts. The NCBI provides funds through competitive contracts for the collection and storage of qualified cord blood units by a network of cord blood banks in the United States.

SSA, Staff Hired with Recovery Act Funds

Sec. ____ . In addition to amounts otherwise provided by section 101, an additional amount is provided for "Social Security Administration—Limitation on Administrative Expenses" to continue funding associated with Title VIII of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), at a rate for operations of \$350,000,000.

Language is needed to provide a total rate for operations of \$11,801 million for the Social Security Administration (SSA) to continue to fund work years needed to lower the initial disability and hearings backlogs. In FY 2010, SSA operated with an additional \$350 million in American Recovery and Reinvestment Act, 2009 funding that was used to hire full time employees. This provision would maintain these work years. Without an additional \$350 million, the agency will not be able to maintain the progress it has made on lowering these backlogs.

Education, Fund Race to the Top

Sec. ____ . In addition to amounts otherwise provided by section 101 for "Department of Education – Innovation and Improvement", there is appropriated \$1,850,000,000 to carry out section 14006 of the American Recovery and Reinvestment Act (ARRA) (Public Law 111-5): Provided, That the Secretary of Education may use these funds to make awards to States or to local educational agencies, or both, in accordance with the applicable requirements of that section, as determined by the Secretary: Provided further, That the Secretary of Education may reserve up to \$500,000,000 of such funds to carry out section 14007 of the ARRA.

The American Recovery and Reinvestment Act of 2009 authorized the Race to the Top program and the Investing in Innovation Fund, and appropriated a total of \$5 billion for both programs. Since the FY 2010 Labor, HHS, Education Appropriations bill did not separately fund these programs, without this anomaly, they would not receive funding under a continuing resolution in FY 2011. This anomaly would also give the Secretary of Education authority under Race to the Top to make awards to States or to local educational agencies, or both, rather than just to States as is permitted under the current authorization.

State and Foreign Operations Subcommittee

State, Pakistan Counterinsurgency Capability Fund (PCCF)

Note: Since funds for this purpose are also administered by the Department of Defense (DOD), this anomaly needs to be considered in conjunction with the DOD, Pakistan Counterinsurgency Fund on the Authorization Issues list. For your reference, the language to accomplish this extension in the absence of an enacted National Defense Authorization Act is provided immediately below.

Sec. ____ . The authority provided by section 1224 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111-84) shall continue in effect through the earlier of the date of enactment of the National Defense Authorization Act for Fiscal Year 2011 or the date specified in section 106(3) of this joint resolution.

Sec. ____ . (a) Notwithstanding section 101, amounts are provided for "Pakistan Counterinsurgency Capability Fund" at a rate for operations of \$700,000,000.

(b) Amounts provided by subsection (a) shall be available to the Secretary of State under the terms and conditions provided for this Fund in Public Law 111-32 through the date specified in section 106(3) of this joint resolution.

Language is needed to provide the authorities/terms and conditions provided under the PCCF heading in the Supplemental Appropriations Act, 2009 (Public Law 111-32), as well as to permit funding for this account, which did not receive appropriations in FY 2010, because the balances from the FY 2009 appropriation were sufficient to run the program in FY 2010. Funding needs to be provided at a rate for operations of \$700 million, which is equal to the amount provided in the FY 2009 Supplemental Appropriations Act.

State, Western Hemisphere Travel Initiative (WHTI) Passport Surcharge Extension

Sec. ____ . Section 1(b)(2) of the Passport Act of June 4, 1920 (22 U.S.C. 214(b)(2)) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "September 30, 2010".

Language is needed to extend the State Department's authority to retain an estimated \$88.6 million in FY 2011 from a surcharge on passport application fees. These funds are necessary to cover the cost of meeting the increased demand for passports as a result of actions taken to comply with section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004, which requires U.S. citizens to have a passport when they depart from or enter the United States.

State/USAID, Extension of Authority to Make Incentive Payments for Critical Posts

Sec. ____ . The authority contained in section 1115 (d) of Public Law 111-32 shall be applied by substituting the date specified in section 106(3) of this joint resolution for "October 1, 2010".

Language is needed to extend the authority contained in section 1115(d) of the FY 2009 Supplemental (Public Law 111-32) to pay recruitment, relocation, and retention bonuses to members of the Foreign Service (other than chiefs of mission and ambassadors at large). This authority has proven critical in attracting highly qualified Foreign Service Officers to serve in critical priority posts (CPCs) in Iraq, Afghanistan, and Pakistan. Expiration of this authority could have an immediate impact on the staffing in CPCs.

State/USAID, Extension of Authority, Annuitant Reemployment in Iraq, Pakistan, and Afghanistan

Sec. ____ . (a) Section 824(g) of the Foreign Service Act of 1980 (22 U.S.C. 4064(g)) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "October 1, 2010" in paragraph (2).

(b) Section 61(a) of the of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2733(a)) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "October 1, 2010" in paragraph (2).

(c) Section 625(j)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2385(j)(1)) shall be applied by substituting the date specified in section 106(3) of this joint resolution for "2010" in subparagraph (B).

Language is needed to extend authorities contained in section 1115(c) of the Supplemental Appropriations Act, 2009 (Public Law 111-32) to waive certain restrictions regarding reemployment of Civil and Foreign Service annuitants to meet staffing needs in Afghanistan, Iraq, and Pakistan and in the Active and Standby components of the Civilian Response Corps (collectively known as the "Response Readiness Corps"). These authorities are an important component of the Department of State's and the U.S. Agency for International Development's efforts to address hiring needs in the dynamic foreign affairs environment.

Treasury, State, and USAID, Industrial Logging Prohibition

Sec. ____ . The second proviso of section 7081(d) of Public Law 111-117 is repealed.

Language is needed to repeal the prohibition in section 7081(d) of the FY 2010 Consolidated Appropriations Act, Division F (State and Foreign Operations Appropriations), which prohibits any FY 2010 funds from "directly or indirectly supporting industrial-scale logging or other industrial-scale resource extraction or sector reform that would promote these activities". The prohibition language creates a significant legal liability associated with U.S. contributions to the Multilateral Development Banks (MDBs) and to other U.S. assistance. The United States is not able to prevent – through its vote on MDB executive boards – an MDB from going forward with a project that could be viewed to support industrial-scale logging sector reform. Moreover, Treasury is not able to segregate its contributions to the MDBs, so if an MDB to which the U.S. contributes funds a project that directly or indirectly supports these activities, Treasury would be in violation of the language.

Transportation, HUD Subcommittee

DOT, Maine and Vermont Truck Weight Limit (expires December 17th)

Sec. ____ . (a) Section 194 of the Consolidated Appropriations Act, 2010 (Public Law 111–117) is amended by striking subsections (b), (c), (e), (f), and (g).

(b) Section 127(a)(13) of title 23, United States Code, is amended by striking “VERMONT PILOT PROGRAM” and all that follows through “91, and 93” and inserting in lieu thereof “With respect to all portions of the Interstate System”.

Language is needed to make permanent the pilot program created in the FY 2010 Transportation and HUD Appropriations Act. The program allows Maine and Vermont to increase truck weight limits on their interstate highways from the Federal limit of 80,000 lbs. to State limits, currently set at 100,000 lbs. and 99,000 lbs., respectively, similar to limits in neighboring States, such as New Hampshire. Prior to the pilot program, commercial vehicles weighing over 80,000 lbs. were able to drive on State and local roads, but not on interstate highways. Continuing the program will improve safety on local roads and increase efficiency of commercial trucking in the region.

HUD, General and Special Risk Loan Guarantee Commitment Limitation

Sec. ____ . Commitments to guarantee loans incurred under the General and Special Risk Insurance Funds, as authorized by sections 238 and 519 of the National Housing Act (12 U.S.C. 1715z–3 and 1735c), shall not exceed a rate for operations of \$20,000,000,000: Provided, That total loan principal, any part of which is to be guaranteed, may be apportioned through the date specified in section 106(3) of this joint resolution, at \$80,000,000 multiplied by the number of days covered by this joint resolution.

Language is needed to provide \$20 billion in loan guarantee commitment authority for FY 2011. Demand for Federal Housing Administration multifamily and healthcare mortgage insurance, currently accelerating toward \$2 billion per month, exceeds an annualized rate for operations permitted by the existing \$15 billion loan guarantee commitment limitation. Although Public Law 111-228 increased the FY 2010 limit to \$20 billion, it was enacted in authorizing rather than appropriations legislation and therefore will not be a term and condition of an FY 2011 CR. Failure to enact an increase in the existing FY 2010 limitation will exacerbate the shortfall by creating a large backlog of unissued commitments, in addition to a record pipeline of applications anticipated to be approved in the early months of FY 2011.

Even with enactment of an increase to \$20 billion for FY 2011, continued high program demand may exceed the new rate permitted in the early months of the fiscal year. A constrained commitment limitation will cause delays in approval of mortgage insurance that in turn may jeopardize the feasibility of projects with time-sensitive requirements and disrupt development and improvement of rental housing and healthcare facilities throughout the country.

HUD, Home Equity Conversion Mortgage (HECM) Program – Appropriation of Positive Subsidy

Sec. ____ . Notwithstanding section 101, amounts are provided for "Department of Housing and Urban Development—Federal Housing Administration—Mutual Mortgage Insurance Program Account" for the cost of new guaranteed loans under section 255 of the National Housing Act (12 U.S.C. 1715z-20) in an amount equal to \$411,000 multiplied by the number of days covered by this joint resolution and, in addition, to the extent that new guaranteed loan commitments under section 255 will and do exceed \$49,315,000 multiplied by the number of days covered by this joint resolution, an additional \$8,300 shall be available for each \$1,000,000 in such additional commitments (including a pro rata amount for any new guaranteed loan commitment amount below \$1,000,000).

Language is needed to provide the Federal Housing Administration (FHA) Mutual Mortgage Insurance (MMI) Program Account credit subsidy appropriations for new HECM loan guarantees proportional to \$150 million to prevent suspension of the HECM program.

The FHA MMI Program Account received no appropriation of credit subsidy in FY 2010—indeed, it did not require one as its programs (forward mortgages and "reverse" HECMs) both have negative subsidy rates in FY 2010 because the Appropriators tightened underwriting criteria to maintain such rates. In 2011, HECMs have a positive subsidy rate, however, and the FY 2011 Budget requested \$250 million in credit subsidy for the program. Although the level requested for this anomaly is less than the FY 2011 Budget request, it is warranted by declining demand for the program. In the absence of an anomaly, there would be no positive credit subsidy in the MMI Program Account and the HECM program would have to suspend operation until enactment of regular appropriations.

HUD, Federal Housing Administration (FHA) Staff Needs

Sec. ____ . Notwithstanding section 101, amounts are provided for "Department of Housing and Urban Development—Personnel Compensation and Benefits—Housing" at a rate for operations of \$395,917,000.

Language is needed to provide a rate for operations of \$396 million to fund Federal Housing Administration (FHA) staff costs at \$92 million for the period of the CR, an increase of \$5 million above the standard CR level, to avoid disrupting vital FHA housing programs. Personnel Compensation and Benefits are the only items funded in this account. New hires by the Office of Housing have increased the number of employees during FY 2010 in response to additional funds received in the FY 2010 appropriations bill and in anticipation of additional funding requested in FY 2011. FHA's capacity is already severely constrained because of unprecedented increases in loan guarantee program activity. Moreover, FHA's efforts to improve risk management, lender oversight, and underwriting review and approval, which are strongly supported by the Administration and the Congress, depend on the availability of administrative resources. Housing would have a shortfall even with normal attrition and if no new employees are hired during this period. This shortfall will be proportionately greater for a shorter-term CR at the very start of the fiscal year.

HUD, Government National Mortgage Association (GNMA) Staff Needs

Sec. ____ . Notwithstanding section 101, amounts are provided for "Department of Housing and Urban Development—Personnel Compensation and Benefits—Office of the Government National Mortgage Association" at a rate for operations of \$16,000,000.

Language is needed to provide a rate for operations of \$16 million to fund critical GNMA positions to support its \$1 trillion portfolio of guarantees of mortgage-backed securities. Ginnie Mae is presently operating at an FTE level of 70 and is hiring an additional 15 employees by October 1, 2010, and \$10.9 million is insufficient to cover the cost. Salary and benefit cost projections indicate GNMA would exceed the CR allocation of \$2.7 million. Therefore, HUD is requesting an allocation of \$3.8 million for the period of the CR -- an additional \$1.1 million to cover the expected shortfall and maintain its critical staffing level.

Given its continuing rate of high guarantee volume, GNMA faces significant risk exposure in overseeing its counterparties and managing an historically large \$16 billion portfolio of defaulted securities. The latter responsibility has effectively made GNMA into a loan servicing enterprise.

HUD, U.S. Interagency Council on Homelessness (ICH)

Sec. ____ . The provisions of title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) shall continue in effect, notwithstanding section 209 of such Act, through the earlier of: (1) the date specified in section 106(3) of this division; or (2) the date of the enactment into law of an authorization Act relating to the McKinney-Vento Homeless Assistance Act.

Language is needed to suspend ICH's current sunset date of October 1st so that the Council can continue to exist through the period of the CR or the date of enactment into law of an authorization Act relating to the McKinney-Vento Homeless Assistance Act.