112th CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
112–

PROVIDING FOR CONSIDERATION OF THE SENATE AMENDMENT TO THE BILL (H.R. 2608) TO PROVIDE FOR AN ADDITIONAL TEMPORARY EXTENSION OF PROGRAMS UNDER THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958, AND FOR OTHER PURPOSES.

September 22, 2011.—Referred to the House Calendar and ordered to be printed.

Mr. DREIER, from the Committee on Rules, submitted the following

REPORT

[To accompany H. Res.__]

The Committee on Rules, having had under consideration House Resolution____, by a record vote of 8 to 4, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for the consideration of H.R. 2608, the Small Business Program Extension and Reform Act of 2011, and the Senate amendment thereto. The resolution makes in order a motion offered by the chair of the Committee on Appropriations that the House concur in the Senate amendment to H.R. 2608 with the amendment printed in part A of this report, as modified by the amendment printed in part B of this report. The resolution waives all points of order against consideration of the motion. The resolution provides that the Senate amendment and the motion shall be considered as read. The resolution provides for one hour of debate on the motion equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the motion includes waivers of: Section 302(f) of the Congressional Budget Act, which prohibits consideration of legislation providing new budget authority in excess of a subcommittee's 302(b) allocation of such authority; Section 311(a) of the Congressional Budget Act, which prohibits consideration of legislation or an amendment that would cause the total level of new budget authority or outlays in the most recent budget resolution to be exceeded, or would cause

revenues to be less; Section 306 of the Congressional Budget Act, which prohibits consideration of legislation within the Budget Committee's jurisdiction, unless reported by the Budget Committee; and clause 7 of rule XVI, prohibiting nongermane amendments.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee Record Vote No. 131

Motion by Mr. Sessions to report a rule providing for the disposition of the Senate amendment to H.R. 2608. Adopted: 8-4

Majority Members	Vote	Minority Members	Vote
Mr. Sessions.....	Yea	Ms. Slaughter.....	Nay
Ms. Foxx.....	Yea	Mr. McGovern.....	Nay
Mr. Bishop of Utah.....	Yea	Mr. Hastings of Florida.....	Nay
Mr. Woodall.....	Yea	Mr. Polis.....	Nay
Mr. Nugent.....	Yea		
Mr. Scott of South Carolina...	Yea		
Mr. Webster.....	Yea		
Mr. Dreier, Chairman.....	Yea		

SUMMARY OF AMENDMENT IN PART A

Rogers, Harold (KY): The amendment in the nature of a substitute is virtually identical to H.J. Res. 79 as introduced with the following modifications: the across-the-board reduction that ensures consistency with the total discretionary spending caps in the Budget Control Act of 2011 has been modified from 1.409% to 1.503%, due to a scoring change made after the introduction of H.J. Res. 79 (this modification was previously included in H. Rept. 112-207); clarifies that the across-the-board cut should be applied to the amounts provided for discretionary advance appropriations, rather than to the "rate for operations" for advance appropriations to ensure that the Office of Management and Budget apportions the advance appropriations consistent with program requirements; and, cross references to 'Act' rather than 'joint resolution.'

SUMMARY OF AMENDMENT IN PART B

Rogers, Harold (KY): Adds, at the end of the House amendment, a modification to rescind $100,000,000 in unobligated funds in the Department of Energy's "Title17-Innovative Technology Loan Guarantee Program".

PART A—TEXT OF AMENDMENT

AMENDMENT TO H.R. 2608

OFFERED BY MR. ROGERS OF KENTUCKY

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

1 That the following sums are hereby appropriated, out of
2 any money in the Treasury not otherwise appropriated,
3 and out of applicable corporate or other revenues, receipts,
4 and funds, for the several departments, agencies, corpora-
5 tions, and other organizational units of Government for
6 fiscal year 2012, and for other purposes, namely:
7 SEC. 101. (a) Such amounts as may be necessary,
8 at a rate for operations as provided in the applicable ap-
9 propriations Acts for fiscal year 2011 and under the au-
10 thority and conditions provided in such Acts, for con-
11 tinuing projects or activities (including the costs of direct
12 loans and loan guarantees) that are not otherwise specifi-
13 cally provided for in this Act, that were conducted in fiscal
14 year 2011, and for which appropriations, funds, or other
15 authority were made available in the following appropria-
16 tions Acts:
17 (1) The Department of Defense Appropriations
18 Act, 2011 (division A of Public Law 112–10).

1 (2) The Full-Year Continuing Appropriations
2 Act, 2011 (division B of Public Law 112–10).
3 (b) The rate for operations provided by subsection (a)
4 is hereby reduced by 1.503 percent.
5 SEC. 102. (a) No appropriation or funds made avail-
6 able or authority granted pursuant to section 101 for the
7 Department of Defense shall be used for (1) the new pro-
8 duction of items not funded for production in fiscal year
9 2011 or prior years; (2) the increase in production rates
10 above those sustained with fiscal year 2011 funds; or (3)
11 the initiation, resumption, or continuation of any project,
12 activity, operation, or organization (defined as any project,
13 subproject, activity, budget activity, program element, and
14 subprogram within a program element, and for any invest-
15 ment items defined as a P–1 line item in a budget activity
16 within an appropriation account and an R–1 line item that
17 includes a program element and subprogram element with-
18 in an appropriation account) for which appropriations,
19 funds, or other authority were not available during fiscal
20 year 2011.
21 (b) No appropriation or funds made available or au-
22 thority granted pursuant to section 101 for the Depart-
23 ment of Defense shall be used to initiate multi-year pro-
24 curements utilizing advance procurement funding for eco-

1 nomic order quantity procurement unless specifically ap-
2 propriated later.

3 SEC. 103. Appropriations made by section 101 shall
4 be available to the extent and in the manner that would
5 be provided by the pertinent appropriations Act.

6 SEC. 104. Except as otherwise provided in section
7 102, no appropriation or funds made available or author-
8 ity granted pursuant to section 101 shall be used to ini-
9 tiate or resume any project or activity for which appro-
10 priations, funds, or other authority were not available dur-
11 ing fiscal year 2011.

12 SEC. 105. Appropriations made and authority grant-
13 ed pursuant to this Act shall cover all obligations or ex-
14 penditures incurred for any project or activity during the
15 period for which funds or authority for such project or
16 activity are available under this Act.

17 SEC. 106. Unless otherwise provided for in this Act
18 or in the applicable appropriations Act for fiscal year
19 2012, appropriations and funds made available and au-
20 thority granted pursuant to this Act shall be available
21 until whichever of the following first occurs: (1) the enact-
22 ment into law of an appropriation for any project or activ-
23 ity provided for in this Act; (2) the enactment into law
24 of the applicable appropriations Act for fiscal year 2012

1 without any provision for such project or activity; or (3)
2 November 18, 2011.

3 SEC. 107. Expenditures made pursuant to this Act
4 shall be charged to the applicable appropriation, fund, or
5 authorization whenever a bill in which such applicable ap-
6 propriation, fund, or authorization is contained is enacted
7 into law.

8 SEC. 108. Appropriations made and funds made
9 available by or authority granted pursuant to this Act may
10 be used without regard to the time limitations for submis-
11 sion and approval of apportionments set forth in section
12 1513 of title 31, United States Code, but nothing in this
13 Act may be construed to waive any other provision of law
14 governing the apportionment of funds.

15 SEC. 109. Notwithstanding any other provision of
16 this Act, except section 106, for those programs that
17 would otherwise have high initial rates of operation or
18 complete distribution of appropriations at the beginning
19 of fiscal year 2012 because of distributions of funding to
20 States, foreign countries, grantees, or others, such high
21 initial rates of operation or complete distribution shall not
22 be made, and no grants shall be awarded for such pro-
23 grams funded by this Act that would impinge on final
24 funding prerogatives.

1 SEC. 110. This Act shall be implemented so that only
2 the most limited funding action of that permitted in the
3 Act shall be taken in order to provide for continuation of
4 projects and activities.

5 SEC. 111. (a) For entitlements and other mandatory
6 payments whose budget authority was provided in appro-
7 priations Acts for fiscal year 2011, and for activities under
8 the Food and Nutrition Act of 2008, activities shall be
9 continued at the rate to maintain program levels under
10 current law, under the authority and conditions provided
11 in the applicable appropriations Act for fiscal year 2011,
12 to be continued through the date specified in section
13 106(3).

14 (b) Notwithstanding section 106, obligations for man-
15 datory payments due on or about the first day of any
16 month that begins after October 2011 but not later than
17 30 days after the date specified in section 106(3) may con-
18 tinue to be made, and funds shall be available for such
19 payments.

20 SEC. 112. Amounts made available under section 101
21 for civilian personnel compensation and benefits in each
22 department and agency may be apportioned up to the rate
23 for operations necessary to avoid furloughs within such de-
24 partment or agency, consistent with the applicable appro-
25 priations Act for fiscal year 2011, except that such author-

1 ity provided under this section shall not be used until after
2 the department or agency has taken all necessary actions
3 to reduce or defer non-personnel-related administrative ex-
4 penses.

5 SEC. 113. Funds appropriated by this Act may be
6 obligated and expended notwithstanding section 10 of
7 Public Law 91–672 (22 U.S.C. 2412), section 15 of the
8 State Department Basic Authorities Act of 1956 (22
9 U.S.C. 2680), section 313 of the Foreign Relations Au-
10 thorization Act, Fiscal Years 1994 and 1995 (22 U.S.C.
11 6212), and section 504(a)(1) of the National Security Act
12 of 1947 (50 U.S.C. 414(a)(1)).

13 SEC. 114. (a) Except as provided in subsection (b),
14 each amount incorporated by reference in this Act that
15 was previously designated as being for contingency oper-
16 ations directly related to the global war on terrorism pur-
17 suant to section 3(c)(2) of H. Res. 5 (112th Congress)
18 and as an emergency requirement pursuant to section
19 403(a) of S. Con. Res. 13 (111th Congress), the concur-
20 rent resolution on the budget for fiscal year 2010, is des-
21 ignated by the Congress for Overseas Contingency Oper-
22 ations/Global War on Terrorism pursuant to section
23 251(b)(2)(A) of the Balanced Budget and Emergency
24 Deficit Control Act of 1985, except that such amount shall
25 be available only if the President subsequently so des-

1 ignates such amount and transmits such designation to
2 the Congress. Section 101(b) of this Act shall not apply
3 to any amount so designated.

4 (b) Subsection (a) shall not apply to amounts for
5 "Department of Justice—Federal Bureau of Investiga-
6 tion—Salaries and Expenses".

7 SEC. 115. During the period covered by this Act, dis-
8 cretionary amounts appropriated for fiscal year 2012 that
9 were provided in advance by appropriations Acts shall be
10 available in the amounts provided in such Acts, reduced
11 by the percentage in section 101(b).

12 SEC. 116. Notwithstanding section 101, amounts
13 made available by this Act for "Department of Defense—
14 Operation and Maintenance—Operation and Maintenance,
15 Air Force" may be used by the Secretary of Defense for
16 operations and activities of the Office of Security Coopera-
17 tion in Iraq and security assistance teams, including life
18 support, transportation and personal security, and facili-
19 ties renovation and construction: *Provided*, That the au-
20 thority made by this section shall continue in effect
21 through the date specified in section 106(3) of this Act:
22 *Provided further*, That section 9014 of division A of Public
23 Law 112–10 shall not apply to funds appropriated by this
24 Act.

1 SEC. 117. Notwithstanding section 101, funds made
2 available in title IX of division A of Public Law 112–10
3 for "Overseas Contingency Operations" shall be available
4 at a rate for operations not to exceed the rate permitted
5 by H.R. 2219 (112th Congress) as passed by the House
6 of Representatives on July 8, 2011.

7 SEC. 118. The authority provided by section 127b of
8 title 10, United States Code, shall continue in effect
9 through the date specified in section 106(3) of this Act.

10 SEC. 119. The authority provided by section 1202 of
11 the John Warner National Defense Authorization Act for
12 Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2412),
13 as extended by section 1204(b) of the Duncan Hunter Na-
14 tional Defense Authorization Act for Fiscal Year 2009
15 (Public Law 110–417; 122 Stat. 4623), shall continue in
16 effect through the date specified in section 106(3) of this
17 Act.

18 SEC. 120. Notwithstanding section 101, amounts are
19 provided for "Defense Nuclear Facilities Safety Board—
20 Salaries and Expenses" at a rate for operations of
21 $29,130,000.

22 SEC. 121. Notwithstanding any other provision of
23 this Act, except section 106, the District of Columbia may
24 expend local funds under the heading "District of Colum-
25 bia Funds" for such programs and activities under title

1 IV of H.R. 2434 (112th Congress), as reported by the
2 Committee on Appropriations of the House of Representa-
3 tives, at the rate set forth under "District of Columbia
4 Funds—Summary of Expenses" as included in the Fiscal
5 Year 2012 Budget Request Act of 2011 (D.C. Act 19–
6 92), as modified as of the date of the enactment of this
7 Act.

8 SEC. 122. Notwithstanding section 101, amounts are
9 provided for the necessary expenses of the Recovery Ac-
10 countability and Transparency Board, to carry out its
11 functions under title XV of division A of the American
12 Recovery and Reinvestment Act of 2009 (Public Law 111–
13 5), at a rate for operations of $28,350,000.

14 SEC. 123. (a) Section 9(m) of the Small Business Act
15 (15 U.S.C. 638(m)) shall be applied by substituting the
16 date specified in section 106(3) of this Act for "September
17 30, 2011".

18 (b) Notwithstanding section 9(n)(1)(A) of the Small
19 Business Act (15 U.S.C. 638(n)(1)(A)), the Small Busi-
20 ness Technology Transfer Program shall continue in effect
21 through the date specified in section 106(3) of this Act.

22 (c) Notwithstanding section 9(y)(6) of the Small
23 Business Act (15 U.S.C. 638(y)(6)), the pilot program
24 under section 9(y) of such Act shall continue in effect
25 through the date specified in section 106(3) of this Act.

1 SEC. 124. Section 8909a(d)(3)(A)(v) of title 5,
2 United States Code, is amended by striking "September
3 30, 2011" and inserting the date specified in section
4 106(3) of this Act.

5 SEC. 125. Notwithstanding any other provision of
6 this Act, effective on the date of the enactment of this
7 Act, of the unobligated balances remaining available to the
8 Department of Energy pursuant to section 129 of the
9 Continuing Appropriations Resolution, 2009 (division A of
10 Public Law 110–329), $500,000,000 is rescinded,
11 $774,000,000 is hereby transferred to and merged with
12 "Department of Homeland Security—Federal Emergency
13 Management Agency—Disaster Relief", and
14 $226,000,000 is hereby transferred to and merged with
15 "Corps of Engineers-Civil—Flood Control and Coastal
16 Emergencies": *Provided*, That the amounts made available
17 by this section for the Corps of Engineers-Civil shall be
18 for emergency expenses for repair of damage caused by
19 the storm and flood events occurring in 2011: *Provided*
20 *further*, That the amounts transferred by this section shall
21 remain available until expended: *Provided further*, That
22 each amount transferred by this section is designated as
23 an emergency pursuant to section 3(c)(1) of H. Res. 5
24 (112th Congress) and as an emergency requirement pur-
25 suant to section 403(a) of S. Con. Res. 13 (111th Con-

1 gress), the concurrent resolution on the budget for fiscal
2 year 2010.

3 SEC. 126. (a) Notwithstanding section 101, amounts
4 are provided for "Department of Homeland Security—
5 Federal Emergency Management Agency—Disaster Re-
6 lief" at a rate for operations of $2,650,000,000: *Provided*,
7 That the Secretary of Homeland Security shall provide a
8 full accounting of disaster relief funding requirements for
9 such account for fiscal year 2012 not later than 15 days
10 after the date of the enactment of this Act, and for fiscal
11 year 2013 in conjunction with the submission of the Presi-
12 dent's budget request for fiscal year 2013.

13 (b) The accounting described in subsection (a) for
14 each fiscal year shall include estimates of the following
15 amounts:

16 (1) The unobligated balance of funds in such
17 account that has been (or will be) carried over to
18 such fiscal year from prior fiscal years.

19 (2) The unobligated balance of funds in such
20 account that will be carried over from such fiscal
21 year to the subsequent fiscal year.

22 (3) The amount of the rolling average of non-
23 catastrophic disasters, and the specific data used to
24 calculate such rolling average, for such fiscal year.

1 (4) The amount that will be obligated each
2 month for catastrophic events, delineated by event
3 and State, and the total remaining funding that will
4 be required after such fiscal year for each such cata-
5 strophic event for each State.
6 (5) The amount of previously obligated funds
7 that will be recovered each month of such fiscal
8 year.
9 (6) The amount that will be required in such
10 fiscal year for emergencies, as defined in section
11 102(1) of the Robert T. Stafford Disaster Relief and
12 Emergency Assistance Act (42 U.S.C. 5122(1)).
13 (7) The amount that will be required in such
14 fiscal year for major disasters, as defined in section
15 102(2) of the Robert T. Stafford Disaster Relief and
16 Emergency Assistance Act (42 U.S.C. 5122(2)).
17 (8) The amount that will be required in such
18 fiscal year for fire management assistance grants, as
19 defined in section 420 of the Robert T. Stafford Dis-
20 aster Relief and Emergency Assistance Act (42
21 U.S.C. 5187).
22 SEC. 127. Any funds made available pursuant to sec-
23 tion 101 for the Department of Homeland Security may
24 be obligated at a rate for operations necessary to sustain
25 essential security activities, such as: staffing levels of oper-

1 ational personnel; immigration enforcement and removal
2 functions, including sustaining not less than necessary de-
3 tention bed capacity; and United States Secret Service
4 protective activities, including protective activities nec-
5 essary to secure National Special Security Events. The
6 Secretary of Homeland Security shall notify the Commit-
7 tees on Appropriations of the House of Representatives
8 and the Senate on each use of the authority provided in
9 this section.

10 SEC. 128. The authority provided by section 532 of
11 Public Law 109–295 shall continue in effect through the
12 date specified in section 106(3) of this Act.

13 SEC. 129. The authority provided by section 831 of
14 the Homeland Security Act of 2002 (6 U.S.C. 391) shall
15 continue in effect through the date specified in section
16 106(3) of this Act.

17 SEC. 130. Section 550(b) of the Department of
18 Homeland Security Appropriations Act, 2007 (6 U.S.C.
19 121 note) shall be applied by substituting the date speci-
20 fied in section 106(3) of this Act for "October 4, 2011".

21 SEC. 131. Sections 1309(a) and 1319 of the National
22 Flood Insurance Act of 1968 (42 U.S.C. 4016(a) and
23 4026) shall be applied by substituting the date specified
24 in section 106(3) of this Act for "September 30, 2011".

1 SEC. 132. Section 330 of the Department of the Inte-
2 rior and Related Agencies Appropriations Act, 2001 (42
3 U.S.C. 1701 note), concerning Service First authorities,
4 shall continue in effect through the date specified in sec-
5 tion 106(3) of this Act.

6 SEC. 133. Notwithstanding section 101, section 1807
7 of Public Law 112–10 shall be applied by substituting
8 "$374,743,000" for "$363,843,000" and "$10,900,000"
9 for "$3,000,000".

10 SEC. 134. The second proviso of section 1801(a)(3)
11 of Public Law 112–10 is amended by striking "appropria-
12 tion under this subparagraph" and inserting "appropria-
13 tions made available by this Act".

14 SEC. 135. Notwithstanding section 101, amounts are
15 provided for "Federal Mine Safety and Health Review
16 Commission—Salaries and Expenses" at a rate for oper-
17 ations of $14,510,000.

18 SEC. 136. Sections 399AA(e), 399BB(g), and
19 399CC(f) of the Public Health Service Act (42 U.S.C.
20 280i(e), 280i–1(g), 280i–2(f)) shall be applied by sub-
21 stituting the date specified in section 106(3) of this Act
22 for "September 30, 2011".

23 SEC. 137. Notwithstanding section 101, section 2005
24 of division B of Public Law 112–10 shall be applied by
25 substituting "$0" for each dollar amount.

1 SEC. 138. The Export-Import Bank Act of 1945 (12
2 U.S.C. 635 et seq.) shall be applied by substituting the
3 date specified in section 106(3) of this Act for "September
4 30, 2011" in section 7 of such Act of 1945.

5 SEC. 139. Section 209 of the International Religious
6 Freedom Act of 1998 (22 U.S.C. 6436) shall be applied
7 by substituting the date specified in section 106(3) of this
8 Act for "September 30, 2011".

9 SEC. 140. Commitments to guarantee loans incurred
10 under the General and Special Risk Insurance Funds, as
11 authorized by sections 238 and 519 of the National Hous-
12 ing Act (12 U.S.C. 1715z–3 and 1735c), shall not exceed
13 a rate for operations of $25,000,000,000: *Provided*, That
14 total loan principal, any part of which is to be guaranteed,
15 may be apportioned through the date specified in section
16 106(3) of this Act, at $80,000,000 multiplied by the num-
17 ber of days covered in this Act.

18 SEC. 141. (a) RENEWAL OF IMPORT RESTRICTIONS
19 UNDER BURMESE FREEDOM AND DEMOCRACY ACT OF
20 2003.—

21 (1) IN GENERAL.—Congress approves the re-
22 newal of the import restrictions contained in section
23 3(a)(1) and section 3A (b)(1) and (c)(1) of the Bur-
24 mese Freedom and Democracy Act of 2003.

1 (2) RULE OF CONSTRUCTION.—This section
2 shall be deemed to be a "renewal resolution" for
3 purposes of section 9 of the Burmese Freedom and
4 Democracy Act of 2003.
5 (b) PAYGO COMPLIANCE.—The budgetary effects of
6 this section, for the purpose of complying with the Statu-
7 tory Pay-As-You-Go Act of 2010, shall be determined by
8 reference to the latest statement titled "Budgetary Effects
9 of PAYGO Legislation" for this section, submitted for
10 printing in the Congressional Record by the Chairman of
11 the House Budget Committee, provided that such state-
12 ment has been submitted prior to the vote on passage.
13 (c) EFFECTIVE DATE.—This section shall take effect
14 on July 26, 2011.
15 (d) APPLICABILITY.—This section shall not be sub-
16 ject to any other provision of this Act.
17 This Act may be cited as the "Continuing Appropria-
18 tions Act, 2012".

PART B—TEXT OF AMENDMENT

[Discussion Draft]

MODIFICATION

TO THE AMENDMENT TO THE SENATE AMENDMENT TO H.R. 2608 OFFERED BY MR. ROGERS OF KENTUCKY

At the end of the matter proposed to be inserted by the House amendment, before the short title, insert the following:

1 SEC. 142. Effective on the date of the enactment of
2 this Act, of the unobligated balances remaining available
3 for "Department of Energy—Energy Programs—Title
4 17-Innovative Technology Loan Guarantee Program" pur-
5 suant to title IV of division A of Public Law 111–5,
6 $100,000,000 is rescinded.