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AMENDMENT^y TO THE SENATE AMENDMENT TO

H.R. 4899

OFFERED BY M . _____

The House concurs in the Senate Amendment to H.R. 4899 with the following amendment:

In the matter proposed to be inserted by the Senate amendment to the text of the bill, insert before the short title at the end the following:

1 **TITLE V—OTHER PROVISIONS**
2 **Subtitle A—Settlements and Other**
3 **Program Provisions**

4 **SEC. 5001. APPROPRIATION OF FUNDS FOR FINAL SETTLE-**
5 **MENT OF CLAIMS FROM IN RE BLACK FARM-**
6 **ERS DISCRIMINATION LITIGATION.**

7 (a) **DEFINITIONS.**—In this section:

8 (1) **SETTLEMENT AGREEMENT.**—The term
9 “Settlement Agreement” means the settlement
10 agreement dated February 18, 2010 (including any
11 modifications agreed to by the parties and approved
12 by the court under that agreement) between certain
13 plaintiffs, by and through their counsel, and the Sec-
14 retary of Agriculture to resolve, fully and forever,

1 the claims raised or that could have been raised in
2 the cases consolidated in *In re Black Farmers Dis-*
3 *crimination Litigation*, No. 08–511 (D.D.C.), in-
4 cluding Pigford claims asserted under section 14012
5 of the Food, Conservation, and Energy Act of 2008
6 (Public Law 110–246; 122 Stat. 2209).

7 (2) PIGFORD CLAIM.—The term “Pigford
8 claim” has the meaning given that term in section
9 14012(a)(3) of the Food, Conservation, and Energy
10 Act of 2008 (Public Law 110–246; 122 Stat. 2210).

11 (b) APPROPRIATION OF FUNDS.—There is hereby ap-
12 propriated to the Secretary of Agriculture
13 \$1,150,000,000, to remain available until expended, to
14 carry out the terms of the Settlement Agreement if the
15 Settlement Agreement is approved by a court order that
16 is or becomes final and nonappealable. The funds appro-
17 priated by this subsection are in addition to the
18 \$100,000,000 of funds of the Commodity Credit Corpora-
19 tion made available by section 14012(i) of the Food, Con-
20 servation, and Energy Act of 2008 (Public Law 110–246;
21 122 Stat. 2212) and shall be available for obligation only
22 after those Commodity Credit Corporation funds are fully
23 obligated. If the Settlement Agreement is not approved as
24 provided in this subsection, the \$100,000,000 of funds of
25 the Commodity Credit Corporation made available by sec-

1 tion 14012(i) of the Food, Conservation, and Energy Act
2 of 2008 shall be the sole funding available for Pigford
3 claims.

4 (c) USE OF FUNDS.—The use of the funds appro-
5 priated by subsection (b) shall be subject to the express
6 terms of the Settlement Agreement.

7 (d) TREATMENT OF REMAINING FUNDS.—If any of
8 the funds appropriated by subsection (b) are not obligated
9 and expended to carry out the Settlement Agreement, the
10 Secretary of Agriculture shall return the unused funds to
11 the Treasury and may not make the unused funds avail-
12 able for any purpose related to section 14012 of the Food,
13 Conservation, and Energy Act of 2008, for any other set-
14 tlement agreement executed in *In re Black Farmers Dis-*
15 *crimination Litigation*, No. 08–511 (D.D.C.), or for any
16 other purpose.

17 (e) RULES OF CONSTRUCTION.—Nothing in this sec-
18 tion shall be construed as requiring the United States, any
19 of its officers or agencies, or any other party to enter into
20 the Settlement Agreement or any other settlement agree-
21 ment. Nothing in this section shall be construed as cre-
22 ating the basis for a Pigford claim.

23 (f) CONFORMING AMENDMENTS.—Section 14012 of
24 the Food, Conservation, and Energy Act of 2008 (Public
25 Law 110–246; 122 Stat. 2209) is amended—

1 (1) in subsection (c)(1)—

2 (A) by striking “subsection (h)” and in-
3 serting “subsection (g)”; and

4 (B) by striking “subsection (i)” and insert-
5 ing “subsection (h)”;

6 (2) by striking subsection (e);

7 (3) in subsection (g), by striking “subsection
8 (f)” and inserting “subsection (e)”;

9 (4) in subsection (i)—

10 (A) by striking “(1) IN GENERAL.—Of the
11 funds” and inserting “Of the funds”; and

12 (B) by striking paragraph (2);

13 (5) by striking subsection (j); and

14 (6) by redesignating subsections (f), (g), (h),
15 (i), and (k) as subsections (e), (f), (g), (h), and (i),
16 respectively.

17 **SEC. 5002. SUMMER EMPLOYMENT FOR YOUTH.**

18 There is appropriated, out of any funds in the Treas-
19 ury not otherwise appropriated, for an additional amount
20 for “Department of Labor—Employment and Training
21 Administration—Training and Employment Services” for
22 activities under the Workforce Investment Act of 1998
23 (“WIA”), \$1,000,000,000 shall be available for obligation
24 on the date of enactment of this Act for grants to States
25 for youth activities, including summer employment for

1 youth: *Provided*, That no portion of such funds shall be
2 reserved to carry out section 127(b)(1)(A) of the WIA:
3 *Provided further*, That for purposes of section
4 127(b)(1)(C)(iv) of the WIA, funds available for youth ac-
5 tivities shall be allotted as if the total amount available
6 for youth activities in the fiscal year does not exceed
7 \$1,000,000,000: *Provided further*, That with respect to the
8 youth activities provided with such funds, section
9 101(13)(A) of the WIA shall be applied by substituting
10 “age 24” for “age 21”: *Provided further*, That the work
11 readiness performance indicator described in section
12 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure
13 of performance used to assess the effectiveness of summer
14 employment for youth provided with such funds: *Provided*
15 *further*, That an amount that is not more than 1 percent
16 of such amount may be used for the administration, man-
17 agement, and oversight of the programs, activities, and
18 grants carried out with such funds, including the evalua-
19 tion of the use of such funds: *Provided further*, That funds
20 available under the preceding proviso, together with funds
21 described in section 801(a) of division A of the American
22 Recovery and reinvestment Act of 2009 (Public Law 111–
23 5), and funds provided in such Act under the heading
24 “Department of Labor–Departmental Management–Sala-

1 ries and Expenses”, shall remain available for obligation
2 through September 30, 2011.

3 **SEC. 5003. THE INDIVIDUAL INDIAN MONEY ACCOUNT LITI-**
4 **GATION SETTLEMENT ACT OF 2010.**

5 (a) **SHORT TITLE.**—This section may be cited as the
6 “Individual Indian Money Account Litigation Settlement
7 Act of 2010”.

8 (b) **DEFINITIONS.**—In this section:

9 (1) **AMENDED COMPLAINT.**—The term
10 “Amended Complaint” means the Amended Com-
11 plaint attached to the Settlement.

12 (2) **LAND CONSOLIDATION PROGRAM.**—The
13 term “Land Consolidation Program” means a pro-
14 gram conducted in accordance with the Settlement
15 and the Indian Land Consolidation Act (25 U.S.C.
16 2201 et seq.) under which the Secretary may pur-
17 chase fractional interests in trust or restricted land.

18 (3) **LITIGATION.**—The term “Litigation” means
19 the case entitled *Elouise Cobell et al. v. Ken Salazar*
20 *et al.*, United States District Court, District of Co-
21 lumbia, Civil Action No. 96–1285 (JR).

22 (4) **PLAINTIFF.**—The term “Plaintiff” means a
23 member of any class certified in the Litigation.

24 (5) **SECRETARY.**—The term “Secretary” means
25 the Secretary of the Interior.

1 (6) SETTLEMENT.—The term “Settlement”
2 means the Class Action Settlement Agreement dated
3 December 7, 2009, in the Litigation, as modified by
4 the parties to the Litigation.

5 (7) TRUST ADMINISTRATION CLASS.—The term
6 “Trust Administration Class” means the Trust Ad-
7 ministration Class as defined in the Settlement.

8 (c) PURPOSE.—The purpose of this section is to au-
9 thorize the Settlement.

10 (d) AUTHORIZATION.—The Settlement is authorized,
11 ratified, and confirmed.

12 (e) JURISDICTIONAL PROVISIONS.—

13 (1) IN GENERAL.—Notwithstanding the limita-
14 tion of jurisdiction of district courts contained in
15 section 1346(a)(2) of title 28, United States Code,
16 the United States District Court for the District of
17 Columbia shall have jurisdiction over the claims as-
18 serted in the Amended Complaint for purposes of
19 the Settlement.

20 (2) CERTIFICATION OF TRUST ADMINISTRATION
21 CLASS.—

22 (A) IN GENERAL.—Notwithstanding the
23 requirements of the Federal Rules of Civil Pro-
24 cedure, the court overseeing the Litigation may
25 certify the Trust Administration Class.

1 (B) TREATMENT.—On certification under
2 subparagraph (A), the Trust Administration
3 Class shall be treated as a class under Federal
4 Rule of Civil Procedure 23(b)(3) for purposes
5 of the Settlement.

6 (f) TRUST LAND CONSOLIDATION.—

7 (1) TRUST LAND CONSOLIDATION FUND.—

8 (A) ESTABLISHMENT.—On final approval
9 (as defined in the Settlement) of the Settle-
10 ment, there shall be established in the Treasury
11 of the United States a fund, to be known as the
12 “Trust Land Consolidation Fund”.

13 (B) AVAILABILITY OF AMOUNTS.—
14 Amounts in the Trust Land Consolidation
15 Fund shall be made available to the Secretary
16 during the 10-year period beginning on the date
17 of final approval of the Settlement—

18 (i) to conduct the Land Consolidation
19 Program; and

20 (ii) for other costs specified in the
21 Settlement.

22 (C) DEPOSITS.—

23 (i) IN GENERAL.—On final approval
24 (as defined in the Settlement) of the Set-
25 tlement, the Secretary of the Treasury

1 shall deposit in the Trust Land Consolida-
2 tion Fund \$2,000,000,000 of the amounts
3 appropriated by section 1304 of title 31,
4 United States Code.

5 (ii) CONDITIONS MET.—The condi-
6 tions described in section 1304 of title 31,
7 United States Code, shall be considered to
8 be met for purposes of clause (i).

9 (D) TRANSFERS.—In a manner designed
10 to encourage participation in the Land Consoli-
11 dation Program, the Secretary may transfer, at
12 the discretion of the Secretary, not more than
13 \$60,000,000 of amounts in the Trust Land
14 Consolidation Fund to the Indian Education
15 Scholarship Holding Fund established under
16 paragraph 2.

17 (2) INDIAN EDUCATION SCHOLARSHIP HOLDING
18 FUND.—

19 (A) ESTABLISHMENT.—On the final ap-
20 proval (as defined in the Settlement) of the Set-
21 tlement, there shall be established in the Treas-
22 ury of the United States a fund, to be known
23 as the “Indian Education Scholarship Holding
24 Fund”.

1 (B) AVAILABILITY.—Notwithstanding any
2 other provision of law governing competition,
3 public notification, or Federal procurement or
4 assistance, amounts in the Indian Education
5 Scholarship Holding Fund shall be made avail-
6 able, without further appropriation, to the Sec-
7 retary to contribute to an Indian Education
8 Scholarship Fund, as described in the Settle-
9 ment, to provide scholarships for Native Ameri-
10 cans.

11 (3) ACQUISITION OF TRUST OR RESTRICTED
12 LAND.—The Secretary may acquire, at the discre-
13 tion of the Secretary and in accordance with the
14 Land Consolidation Program, any fractional interest
15 in trust or restricted land.

16 (4) TREATMENT OF UNLOCATABLE PLAIN-
17 TIFFS.—A Plaintiff the whereabouts of whom are
18 unknown and who, after reasonable efforts by the
19 Secretary, cannot be located during the 5 year pe-
20 riod beginning on the date of final approval (as de-
21 fined in the Settlement) of the Settlement shall be
22 considered to have accepted an offer made pursuant
23 to the Land Consolidation Program.

24 (g) TAXATION AND OTHER BENEFITS.—

1 (1) INTERNAL REVENUE CODE.—For purposes
2 of the Internal Revenue Code of 1986, amounts re-
3 ceived by an individual Indian as a lump sum or a
4 periodic payment pursuant to the Settlement—

5 (A) shall not be included in gross income;
6 and

7 (B) shall not be taken into consideration
8 for purposes of applying any provision of the
9 Internal Revenue Code of 1986 that takes into
10 account excludable income in computing ad-
11 justed gross income or modified adjusted gross
12 income, including section 86 of that Code (re-
13 lating to Social Security and tier 1 railroad re-
14 tirement benefits).

15 (2) OTHER BENEFITS.—Notwithstanding any
16 other provision of law, for purposes of determining
17 initial eligibility, ongoing eligibility, or level of bene-
18 fits under any Federal or federally assisted program,
19 amounts received by an individual Indian as a lump
20 sum or a periodic payment pursuant to the Settle-
21 ment shall not be treated for any household member,
22 during the 1-year period beginning on the date of re-
23 ceipt—

24 (A) as income for the month during which
25 the amounts were received; or

1 (B) as a resource.

2 **SEC. 5004. EXTENSION AND FLEXIBILITY FOR CERTAIN AL-**
3 **LOCATED SURFACE TRANSPORTATION PRO-**
4 **GRAMS.**

5 (a) MODIFICATION OF ALLOCATION RULES.—Section
6 411(d) of the Surface Transportation Extension Act of
7 2010 (Public Law 111–147; 124 Stat. 80) is amended—

8 (1) in paragraph (1)—

9 (A) in the matter preceding subparagraph

10 (A)—

11 (i) by striking “1301, 1302,”; and

12 (ii) by striking “1198, 1204,”; and

13 (B) in subparagraph (A)—

14 (i) in the matter preceding clause (i)
15 by striking “apportioned under sections
16 104(b) and 144 of title 23, United States
17 Code,” and inserting “specified in section
18 105(a)(2) of title 23, United States Code
19 (except the high priority projects pro-
20 gram),”; and

21 (ii) in clause (ii) by striking “appor-
22 tioned under such sections of such Code”
23 and inserting “specified in such section
24 105(a)(2) (except the high priority projects
25 program)”; and

1 (2) in paragraph (2)—

2 (A) in the matter preceding subparagraph

3 (A)—

4 (i) by striking “1301, 1302,”; and

5 (ii) by striking “1198, 1204,”; and

6 (B) in subparagraph (A)—

7 (i) in the matter preceding clause (i)

8 by striking “apportioned under sections

9 104(b) and 144 of title 23, United States

10 Code,” and inserting “specified in section

11 105(a)(2) of title 23, United States Code

12 (except the high priority projects pro-
13 gram),”; and

14 (ii) in clause (ii) by striking “appor-
15 tioned under such sections of such Code”

16 and inserting “specified in such section

17 105(a)(2) (except the high priority projects

18 program)”; and

19 (3) by adding at the end the following:

20 “(5) PROJECTS OF NATIONAL AND REGIONAL

21 SIGNIFICANCE AND NATIONAL CORRIDOR INFRA-

22 STRUCTURE IMPROVEMENT PROGRAMS.—

23 “(A) REDISTRIBUTION AMONG STATES.—

24 Notwithstanding sections 1301(m) and 1302(e)

25 of SAFETEA-LU (119 Stat. 1202 and 1205),

1 the Secretary shall apportion funds authorized
2 to be appropriated under subsection (b) for the
3 projects of national and regional significance
4 program and the national corridor infrastruc-
5 ture improvement program among all States
6 such that each State's share of the funds so ap-
7 portioned is equal to the State's share for fiscal
8 year 2009 of funds apportioned or allocated for
9 the programs specified in section 105(a)(2) of
10 title 23, United States Code.

11 “(B) DISTRIBUTION AMONG PROGRAMS.—
12 Funds apportioned to a State pursuant to sub-
13 paragraph (A) shall be—

14 “(i) made available to the State for
15 the programs specified in section 105(a)(2)
16 of title 23, United States Code (except the
17 high priority projects program), and in the
18 same proportion for each such program
19 that—

20 “(I) the amount apportioned to
21 the State for that program for fiscal
22 year 2009; bears to

23 “(II) the amount apportioned to
24 the State for fiscal year 2009 for all
25 such programs; and

1 “(ii) administered in the same manner
2 and with the same period of availability as
3 funding is administered under programs
4 identified in clause (i).”.

5 (b) EXPENDITURE AUTHORITY FROM HIGHWAY
6 TRUST FUND.—Paragraph (1) of section 9503(c) of the
7 Internal Revenue Code of 1986 is amended by striking
8 “Surface Transportation Extension Act of 2010” and in-
9 serting “Supplemental Appropriations Act, 2010”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect upon the date of enactment
12 of the Surface Transportation Extension Act of 2010
13 (Public Law 111–147; 124 Stat. 78 et seq.) and shall be
14 treated as being included in that Act at the time of the
15 enactment of that Act.

16 (d) SAVINGS CLAUSE.—

17 (1) IN GENERAL.—For fiscal year 2010 and for
18 the period beginning on October 1, 2010, and ending
19 on December 31, 2010, the amount of funds appor-
20 tioned to each State under section 411(d) of the
21 Surface Transportation Extension Act of 2010
22 (Public Law 111–147) that is determined by the
23 amount that the State received or was authorized to
24 receive for fiscal year 2009 to carry out the projects
25 of national and regional significance program and

1 national corridor infrastructure improvement pro-
2 gram shall be the greater of—

3 (A) the amount that the State was author-
4 ized to receive under section 411(d) of the Sur-
5 face Transportation Extension Act of 2010 with
6 respect to each such program according to the
7 provisions of that Act, as in effect on the day
8 before the date of enactment of this Act; or

9 (B) the amount that the State is author-
10 ized to receive under section 411(d) of the Sur-
11 face Transportation Extension Act of 2010 with
12 respect to each such program pursuant to the
13 provisions of that Act, as amended by the
14 amendments made by this section.

15 (2) OBLIGATION AUTHORITY.—For fiscal year
16 2010, the amount of obligation authority distributed
17 to each State shall be the greater of—

18 (A) the amount that the State was author-
19 ized to receive pursuant to section 120(a)(4)(A)
20 (as it pertains to the Appalachian Development
21 Highway System program) of title I of division
22 A of the Consolidated Appropriations Act, 2010
23 (Public Law 111–117) and sections
24 120(a)(4)(B) and 120(a)(6) of such title, as of

1 the day before the date of enactment of this
2 Act; or

3 (B) the amount that the State is author-
4 ized to receive pursuant to section 120(a)(4)(A)
5 (as it pertains to the Appalachian Development
6 Highway System program) of title I of division
7 A of the Consolidated Appropriations Act, 2010
8 (Public Law 111–117) and sections
9 120(a)(4)(B) and 120(a)(6) of such title, as of
10 the date of enactment of this Act.

11 (3) AUTHORIZATION OF APPROPRIATIONS.—
12 There is authorized to be appropriated out of the
13 Highway Trust Fund (other than the Mass Transit
14 Account) such sums as may be necessary to carry
15 out this subsection.

16 (4) INCREASE IN OBLIGATION LIMITATION.—
17 The limitation under the heading “Federal-aid High-
18 ways (Limitation on Obligations) (Highway Trust
19 Fund)” in Public Law 111–117 is increased by such
20 sums as may be necessary to carry out this sub-
21 section.

22 (5) CONTRACT AUTHORITY.—Funds made
23 available to carry out this subsection shall be avail-
24 able for obligation and administered in the same

1 manner as if such funds were apportioned under
2 chapter 1 of title 23, United States Code.

3 (6) AMOUNTS.—The dollar amount specified in
4 section 105(d)(1) of title 23, United States Code,
5 the dollar amount specified in section 120(a)(4)(B)
6 of title I of division A of the Consolidated Appro-
7 priations Act, 2010 (Public Law 111–117), and the
8 dollar amount specified in section 120(b)(10) of
9 such title shall each be increased as necessary to
10 carry out this subsection.

11 **Subtitle B—Revenue Provisions**

12 **SEC. 5101. REQUIRED MINIMUM 10-YEAR TERM, ETC., FOR** 13 **GRANTOR RETAINED ANNUITY TRUSTS.**

14 (a) IN GENERAL.—Subsection (b) of section 2702 of
15 the Internal Revenue Code of 1986 is amended—

16 (1) by redesignating paragraphs (1), (2) and
17 (3) as subparagraphs (A), (B), and (C), respectively,
18 and by moving such subparagraphs (as so redesign-
19 nated) 2 ems to the right,

20 (2) by striking “For purposes of” and inserting
21 the following:

22 “(1) IN GENERAL.—For purposes of”, and

23 (3) by striking “paragraph (1) or (2)” in para-
24 graph (1)(C) (as so redesignated) and inserting
25 “subparagraph (A) or (B)”, and

1 (4) by adding at the end the following new
2 paragraph:

3 “(2) ADDITIONAL REQUIREMENTS WITH RE-
4 SPECT TO GRANTOR RETAINED ANNUITIES.—For
5 purposes of subsection (a), in the case of an interest
6 described in paragraph (1)(A) (determined without
7 regard to this paragraph) which is retained by the
8 transferor, such interest shall be treated as de-
9 scribed in such paragraph only if—

10 “(A) the right to receive the fixed amounts
11 referred to in such paragraph is for a term of
12 not less than 10 years,

13 “(B) such fixed amounts, when determined
14 on an annual basis, do not decrease relative to
15 any prior year during the first 10 years of the
16 term referred to in subparagraph (A), and

17 “(C) the remainder interest has a value
18 greater than zero determined as of the time of
19 the transfer.”.

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

1 **SEC. 5102. CRUDE TALL OIL INELIGIBLE FOR CELLULOSIC**
2 **BIOFUEL PRODUCER CREDIT.**

3 (a) IN GENERAL.—Clause (iii) of section 40(b)(6)(E)
4 of the Internal Revenue Code of 1986 is amended—

5 (1) by striking “or” at the end of subclause (I),

6 (2) by striking the period at the end of sub-
7 clause (II) and inserting “, or”,

8 (3) by adding at the end the following new sub-
9 clause:

10 “(III) such fuel has an acid num-
11 ber greater than 25.”, and

12 (4) by striking “UNPROCESSED” in the heading
13 and inserting “CERTAIN”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to fuels sold or used on or after
16 January 1, 2010.

17 **SEC. 5103. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
18 **TAXES.**

19 The percentage under paragraph (2) of section 561
20 of the Hiring Incentives to Restore Employment Act in
21 effect on the date of the enactment of this Act is increased
22 by 5.25 percentage points.

23 **Subtitle C—Budgetary Provisions**

24 **SEC. 5201. BUDGETARY PROVISIONS.**

25 (a) STATUTORY PAYGO.—The budgetary effects of
26 this Act, for the purpose of complying with the Statutory

1 Pay-As-You-Go-Act of 2010, shall be determined by ref-
2 erence to the latest statement titled “Budgetary Effects
3 of PAYGO Legislation” for this Act, jointly submitted for
4 printing in the Congressional Record by the Chairmen of
5 the House and Senate Budget Committees, provided that
6 such statement has been submitted prior to the vote on
7 passage in the House acting first on this conference report
8 or amendment between the Houses.

9 (b) EXCLUSION FROM PAYGO.—

10 (1) Savings in this Act that would be subject to
11 inclusion in the Statutory Pay-As-You-Go scorecards
12 are providing an offset to increased discretionary
13 spending. As such, they should not be available on
14 the scorecards maintained by the Office of Manage-
15 ment and Budget to provide offsets for future legis-
16 lation.

17 (2) The Director of the Office of Management
18 and Budget shall not include any net savings result-
19 ing from the changes in direct spending or revenues
20 contained in this Act on the scorecards required to
21 be maintained by OMB under the Statutory Pay-As-
22 You-Go Act of 2010.

