

New Legislative Riders

In 2013 House Labor-HHS-Education Appropriations Bill as approved by subcommittee

The following legislative provisions and riders included in the House subcommittee bill were not in the Labor-HHS-Education appropriations bill as enacted for 2012, or contain significant changes to 2012 provisions.

Provisions are listed in the order in which they appear in the bill.

Title I—Department of Labor

- 1. No Travel until a Certain Report is Submitted by Secretary:** Language under the Job Corps appropriation prohibits use of funds for travel for the Office of the Secretary until a report detailing prior year Job Corps funds is submitted to Congress (this report is requested in the accompanying FY 2013 subcommittee report).
- 2. Safety and Health Training Grants:** Language under the Occupational Safety and Health Administration (OSHA) appropriation prohibits use of funds for the Susan Harwood Training Grants program, which makes competitive grants for education and training of workers regarding workplace safety and health.
- 3. Job Corps Salary Limits:** Section 101 reduces the limit on salaries that may be paid to employees of Job Corps contractors from federal funds; the bill sets this limit at federal Executive Level III (currently \$165,300), in place of the current limit of \$179,700.
- 4. Approval for Transfer of Funds:** Section 102, governing transfer authority for the Labor Department, includes new language requiring approval from the House and Senate Appropriations Committees for any use of that authority.
- 5. Project Labor Agreements:** Section 110 prohibits use of funds for project labor agreements on Department of Labor construction projects.
- 6. Labor-Management Consultant Reporting:** Section 111 prohibits use of funds to continue to develop or to promulgate amendments to regulations regarding reporting required under the Labor-Management Reporting and Disclosure Act by labor-management consultants.
- 7. Visa Program for Temporary Foreign Workers:** Section 112 prohibits use of funds to implement or enforce two new rules related to the H-2B visa program, which permits employers to hire low-skilled, temporary foreign workers to meet seasonal demands in non-agricultural jobs. The rules involve calculation of wages, requirements to cover certain costs for guest workers, and employer efforts to recruit American workers for these jobs.
- 8. Workplace Injury and Illness Prevention:** Section 113 prohibits use of funds to develop, issue, or enforce any new OSHA rules which would require employers to have comprehensive

injury and illness prevention plans. (Such rules are in the early stages of development, and no specific proposal has yet been issued for public comment.)

9. Grain Elevator Safety: Section 114 prohibits use of funds to enforce certain OSHA rules regarding worker safety in grain storage facilities.

10. Minimum Wage and Overtime for Home Health Workers: Section 115 prohibits use of funds to further develop, issue or enforce a proposed regulation narrowing the range of home health care workers who are excluded from minimum wage and overtime requirements.

11. Protection for Roofing Workers Against Falls: Section 116 prohibits use of funds to apply a change to OSHA enforcement policies that is designed to improve protection against falling from roofs by workers on residential roofing projects.

12. Child Labor in Agriculture: Section 117 prohibits use of funds to continue the development of proposed changes to rules governing child labor in agriculture. (The proposed rules at issue have been withdrawn by the Labor Department.)

13. Black Lung Prevention: Section 118 prohibits use of funds to further develop, issue, or enforce proposed Mine Safety and Health Administration (MSHA) rules governing coal dust exposure designed to reduce black lung disease among miners.

Title II—Department of Health and Human Services

14. Vaccine Purchases: Language under the Centers for Disease Control (CDC) Immunization and Respiratory Diseases appropriation requires that the same ratio of childhood to adult vaccines bought with vaccine purchase funds be maintained in FY 2013 as in FY 2012.

15. CDC Budget Process: Language under the CDC-Wide Activities appropriation requires the CDC “to implement a transparent criteria-based budget process” with various specified characteristics.

16. CDC Data Collection IT: Language under the CDC-Wide Activities appropriation requires the CDC to develop a plan within 180 days “to field and implement a single platform web-based data collection information technology system for collecting data from States and local governments”.

17. Delay in Report on Carcinogens: Language under the NIH National Institute of Environmental Health Sciences appropriation prohibits use of funds for the Report on Carcinogens required by law until 30 days after completion of a National Academy of Sciences study related to listing of formaldehyde and styrene in the most recent report.

18. Delay in Cures Acceleration Network Implementation: Language under the NIH National Center for Advancing Translational Sciences (NCATS) appropriation prohibits use of the funds provided for the Cures Acceleration Network until NIH publishes a proposed rule to ensure that the programs and activities of NCATS “do not create duplication, redundancy or competition with private industry”.

19. Delay in Changes to Clinical and Translational Sciences Awards (CTSA) Program: Language under the NIH NCATS appropriation prohibits any changes to the CTSA program until the Institute of Medicine has completed a review of the program.

20. Delay in Changes to National Children’s Study: Language under the NIH Office of the Director appropriation prohibits any changes to the current design of the National Children’s Study (including the structure of its Vanguard pilots) until 90 days after the Institute of Medicine conducts a review of the proposed changes.

21. Floor on Research Training Awards: Language under the NIH Office of the Director appropriation requires that at least 16,670 new and competing awards (the estimated FY 2012 level) be made under the Ruth L. Kirschstein National Research Service Awards program in FY 2013.

22. Allocation of NIH Research Funds: Language under the NIH Office of the Director appropriation requires the NIH Director to ensure that FY 2013 NIH appropriations are allocated as follows: 90 percent for extramural activities, 10 percent for intramural activities, and at least 55 percent for “basic science activities”.

23. No Travel until Certain Actions Taken by NIH: Language under the NIH Office of the Director appropriation prohibits use of funds for travel for the immediate office of the Director until implementation of a pilot study of third party billing for clinical center services and a study of clinical trials (both requested in the FY 2012 conference report).

24. Economic Research at NIH: Language under the NIH Office of the Director appropriation prohibits use of any NIH funds for “economic research programs, projects or activities”.

25. Centers for Medicare and Medicaid Services (CMS) Research and Demonstrations: Language under the CMS program management appropriation prohibits use of any funds provided under that heading to support research, demonstration, and evaluation activities.

26. Consumer Information and Insurance Oversight: Language under the CMS program management appropriation prohibits use of any funds provided under that heading to support the Center for Consumer Information and Insurance Oversight or activities developed, administered or implemented by that Center.

27. Administration for Community Living: Language under the Administration on Aging appropriation reverses (during FY 2013) a reorganization implemented in 2012 to combine the Administration on Aging, developmental disabilities programs and certain other activities into a new Administration for Community Living.

28. Grantee Salary Limits: Section 203 sets the limit on salaries that may be paid from HHS grant funds at federal Executive Level III (currently \$165,300), in place of the current limit of \$179,700.

29. Approval for Transfer of Funds: Section 205, governing transfer authority for the Department of HHS, includes new language requiring approval from the House and Senate Appropriations Committees for any use of that authority.

30. Approval for Transfer of Funds for NIH Research on AIDS: Section 207, which provides customary authority for transfer of funds from NIH institutes and centers to the central Office of AIDS Research, includes new language requiring approval from the House and Senate Appropriations Committees for any use of that authority.

31. Disease Prevention Activities: Section 215 prohibits use of funds for three specified provisions of the Affordable Care Act—section 4001 (National Prevention, Health Promotion and Public Health Council), section 4004 (Education and Outreach Campaign Regarding Preventive Benefits), and 4201 (Community Transformation Grants).

32. Patient-Centered Outcomes Research: Section 217 prohibits use of funds to support any patient-centered outcomes research.

33. Healthy Food: Section 218 prohibits use of funds for the Healthy Foods Financing Initiative.

34. Family Planning: Section 219 prohibits use of funds to carry out the Title X family planning program.

35. NIH Pay Authorities: Section 220 permanently restricts use of “Title 42” pay authorities that allow special pay rates for senior scientists and physicians (primarily at NIH). Among other things, the provision prohibits any new hiring of continuing full-time employees under this authority and any future pay raises for current employees.

36. Reallocation of Abstinence-Only Funding: Section 222 provides for reallocation of funds provided under authorizing law for grants to states for “abstinence only” sex education for which applications have not been received from states to which they were allotted by formula. The unclaimed funds would first be allotted to states with programs requiring implementation of every element listed in the authorizing law, and then to any other states that submit an application.

37. New Requirements for Approval of Research Projects: Section 223 establishes extensive new requirements that must be met before funds can be spent on “any program, project or activity” related to research”. These include certification to the Secretary that the project is of high scientific value and will have measurable impact on public health (along with an explanation of how that impact will be measured), and written approval of each certification by the Secretary.

38. User Fees and Proceeds from Agreements: Section 225 overrides authorizing law to restrict the amount of proceeds that may be retained and used by NIH and CDC from user fees, reimbursable agreements or Cooperative Research and Development Agreements.

39. Remedies for Anti-Deficiency Act Violations: Section 226 requires the Secretary of HHS to make adjustments to accounts and take any other corrective action needed to remedy a series of Anti-Deficiency Act violations reported by the Department in July 2011, “regardless of any determination by the Secretary that such action would have serious programmatic repercussions”.

40. Termination of AHRQ: Section 227 abolishes the Agency for Healthcare Research and Quality.

41. No Travel Until Report Provided: Section 228 prohibits use of funds to support travel in the Office of the Secretary until the Secretary provides a report to the Appropriations Committees “explaining how HHS is fully implementing Section 505 of Public Law 112-10 for fiscal year 2012”. (The meaning of this provision is unclear, as Public Law 112-10 does not appear to have a section 505.)

42. No Travel Until Questions Answered: Section 229 prohibits use of funds to support travel in the Office of the Secretary until the Secretary fully and completely answers all questions submitted by the House Appropriations Committee related to the FY 2013 appropriations process.

Title III—Department of Education

43. Approval for Transfers: Section 304, governing transfer authority for the Department of Education, includes new language requiring approval from the House and Senate Appropriations Committees for any use of that authority.

44. Prohibition on New Rules for Student Aid Participation: Section 307 prohibits use of funds to administer or enforce certain Education Department rules relating to standards for state authorization for institutions participating in federal student aid programs and guidance on defining “credit hour” for purposes of computing student aid.

45. Prohibition on Student Aid Program Integrity Rules: Section 308 prohibits use of funds to administer or enforce various Education Department program integrity regulations covering proprietary colleges and non-degree programs that participate in federal student aid programs, including requirements for disclosure of information to prospective students and the “gainful employment” standards (relating to debt loads and repayment records of former students).

Title IV—Related Agencies

46. Ban on Support for NPR: Language under the Corporation for Public Broadcasting (CPB) appropriation prohibits any funds appropriated for the CPB in FY 2013 from being used to “pay dues to, acquire programs from, or otherwise support National Public Radio.”

47. Limit on Indirect Costs for IMLS Grants: Language under the Institute of Museum and Library Services (IMLS) appropriation prohibits use of funds to pay indirect cost rates on an IMLS contract, grant, or cooperative agreement that exceed 25 percent of direct costs.

48. NLRB Standards for Bargaining Unit Determinations: Section 402 prohibits use of funds by the National Labor Relations Board (NLRB) to create, apply or enforce any standard for initial bargaining unit determinations that conflicts with a the majority opinion in a 2010 Board case called *Wheeling Island Gaming*.

49. NLRB Standards for Representation Elections: Section 403 prohibits use of funds by the NLRB to create or enforce any standard for union representation elections that conflicts with the standard articulated in the majority opinion in a 2007 NLRB case called *Dana Corporation*.

50. Prohibition on Amendments to NLRB Election Rules: Section 405 prohibits use of funds to promulgate or implement any amendments to the NLRB’s regulations for filing and processing of petitions for union representation elections, including proposed rules published last June.

51. Contract for Social Security Administration Strategic Plan: Language under the Social Security Administration (SSA) “Limitation on Administrative Expenses” account directs SSA to “seek to enter into a contract with the National Academy of Public Administration” for a report regarding a long-range strategic plan for the agency.

Title V—General Provisions

52. Approval for, and Limit on, Reprogrammings. New language is added to section 515(b), which governs reprogramming of funds for agencies covered by the bill, to require approval by the House and Senate Appropriations Committee for all reprogrammings that exceed the threshold set by the section and to prohibit reprogrammings that increase or decrease funding for any program, project or activity by more than three percent.

53. Prohibition on Consolidation of Budget Lines: Section 523 prohibits use of funds “for the consolidation, restructuring, or elimination of categorical budget lines”.

54. Contracts, Grants and Loans to Corporations with Criminal Convictions: Section 525 prohibits use of funds for contracts, grants, loans loan guarantees and other arrangements with corporations convicted of felonies under federal law within the preceding 24 months, unless the agency determines that this action is not necessary.

55. Contracts, Grants and Loans to Corporations with Unpaid Taxes: Section 526 prohibits use of funds for contracts, grants, loans loan guarantees and other arrangements with corporations having unpaid tax liabilities (not being paid in a timely manner under a collection agreement) where all judicial and administrative appeals have been exhausted or have lapsed, unless the agency determines that this action is not necessary.

56. Pornography on Agency Computer Systems: Section 527 prohibits use of funds to maintain or establish a computer network or website “that permits or enables viewing, downloading, or exchanging of pornography”.

57. NLRB Jurisdiction Over Tribal Enterprises: Section 528 prohibits use of funds to enforce the National Labor Relations Act against any enterprise or institution owned and operated by an Indian tribe on tribal lands.

58. Prohibition on Implementing the Affordable Care Act: Section 529 prohibits use of funds to implement, administer, enforce, or further the provisions of the Affordable Care Act, except for the Medicare rate setting process for calendar year 2013 and fiscal year 2014, and specified provisions relating to Medicaid payments for prescription drugs.

59. Prohibition on Funds to Planned Parenthood: Section 536 prohibits any funds in the bill from being made available to Planned Parenthood or any of its affiliates or clinics unless the organizations certify that they will not perform abortions or provide any funds to any other entity that does (with the same exceptions as in the Hyde Amendment).

60. Exemption to Essential Benefits Requirements for Religious or Moral Convictions: Section 537 prohibits use of any HHS funds to assess penalties or otherwise enforce requirements in the Affordable Care Act for health plans to cover particular items or services (e.g., contraception) if the issuer, purchaser or sponsor of the plan objects on the basis of religious beliefs or moral convictions, with special provisions authorizing lawsuits to enforce this prohibition.

61. “Abortion Non-Discrimination” Legislation: Section 538 makes extensive permanent amendments to section 245 of the Public Health Service Act, which relates to the rights of health care practitioners and providers to refuse to perform or participate in abortions.