

DECEMBER 15, 2015

RULES COMMITTEE PRINT 114-39

**TEXT OF HOUSE AMENDMENT #1 TO THE SENATE
AMENDMENT TO H.R. 2029, MILITARY CON-
STRUCTION AND VETERANS AFFAIRS AND RE-
LATED AGENCIES APPROPRIATIONS ACT,
2016**

**[Showing the text of the Consolidated Appropriations Act,
2016.]**

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Consolidated Appro-
5 priations Act, 2016”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. References.
- Sec. 4. Explanatory statement.
- Sec. 5. Statement of appropriations.
- Sec. 6. Availability of funds.
- Sec. 7. Technical allowance for estimating differences.
- Sec. 8. Corrections.
- Sec. 9. Adjustments to compensation.

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DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIA-
TIONS ACT, 2016

Title I—Agricultural Programs
Title II—Conservation Programs
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Title VII—General Provisions

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Title II—Operation and Maintenance
Title III—Procurement
Title IV—Research, Development, Test and Evaluation
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Title VI—Other Department of Defense Programs
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DIVISION D—ENERGY AND WATER DEVELOPMENT AND RELATED
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Title II—Department of the Interior
Title III—Department of Energy
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Title I—Department of the Treasury
Title II—Executive Office of the President and Funds Appropriated to the
President
Title III—The Judiciary
Title IV—District of Columbia
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Title VI—General Provisions—This Act
Title VII—General Provisions—Government-wide
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DIVISION F—DEPARTMENT OF HOMELAND SECURITY
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PRIATIONS ACT, 2016

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Title II—Department of Health and Human Services
Title III—Department of Education
Title IV—Related Agencies
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DIVISION I—LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2016

Title I—Legislative Branch
Title II—General Provisions

DIVISION J—MILITARY CONSTRUCTION AND VETERANS AFFAIRS,
AND RELATED AGENCIES APPROPRIATIONS ACT, 2016

Title I—Department of Defense
Title II—Department of Veterans Affairs
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Title IV—General Provisions

DIVISION K—DEPARTMENT OF STATE, FOREIGN OPERATIONS,
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Title I—Department of State and Related Agency
Title II—United States Agency for International Development
Title III—Bilateral Economic Assistance
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Title V—Multilateral Assistance
Title VI—Export and Investment Assistance
Title VII—General Provisions
Title VIII—Overseas Contingency Operations/Global War on Terrorism
Title IX—Other Matters

DIVISION L—TRANSPORTATION, HOUSING AND URBAN DEVELOP-
MENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2016

Title I—Department of Transportation
Title II—Department of Housing and Urban Development
Title III—Related Agencies
Title IV—General Provisions—This Act

DIVISION M—INTELLIGENCE AUTHORIZATION ACT FOR FISCAL
YEAR 2016

DIVISION N—CYBERSECURITY ACT OF 2015

1 employment Insurance Integrity Center of Excel-
2 lence shall be available for obligation by the State
3 through September 30, 2017, and funds used for
4 unemployment insurance workloads experienced by
5 the States through September 30, 2016 shall be
6 available for Federal obligation through December
7 31, 2016;

8 (2) \$14,547,000 from the Trust Fund is for na-
9 tional activities necessary to support the administra-
10 tion of the Federal-State unemployment insurance
11 system;

12 (3) \$658,587,000 from the Trust Fund, to-
13 gether with \$21,413,000 from the General Fund of
14 the Treasury, is for grants to States in accordance
15 with section 6 of the Wagner-Peyser Act, and shall
16 be available for Federal obligation for the period
17 July 1, 2016 through June 30, 2017;

18 (4) \$19,818,000 from the Trust Fund is for na-
19 tional activities of the Employment Service, includ-
20 ing administration of the work opportunity tax cred-
21 it under section 51 of the Internal Revenue Code of
22 1986, and the provision of technical assistance and
23 staff training under the Wagner-Peyser Act;

24 (5) \$62,310,000 from the Trust Fund is for the
25 administration of foreign labor certifications and re-

1 lated activities under the Immigration and Nation-
2 ality Act and related laws, of which \$48,028,000
3 shall be available for the Federal administration of
4 such activities, and \$14,282,000 shall be available
5 for grants to States for the administration of such
6 activities; and

7 (6) \$67,653,000 from the General Fund is to
8 provide workforce information, national electronic
9 tools, and one-stop system building under the Wag-
10 ner-Peyser Act and shall be available for Federal ob-
11 ligation for the period July 1, 2016 through June
12 30, 2017:

13 *Provided*, That to the extent that the Average Weekly In-
14 sured Unemployment (“AWIU”) for fiscal year 2016 is
15 projected by the Department of Labor to exceed
16 2,680,000, an additional \$28,600,000 from the Trust
17 Fund shall be available for obligation for every 100,000
18 increase in the AWIU level (including a pro rata amount
19 for any increment less than 100,000) to carry out title
20 III of the Social Security Act: *Provided further*, That
21 funds appropriated in this Act that are allotted to a State
22 to carry out activities under title III of the Social Security
23 Act may be used by such State to assist other States in
24 carrying out activities under such title III if the other
25 States include areas that have suffered a major disaster

1 priated for the current fiscal year for the Department of
2 Labor in this Act may be transferred between a program,
3 project, or activity, but no such program, project, or activ-
4 ity shall be increased by more than 3 percent by any such
5 transfer: *Provided*, That the transfer authority granted by
6 this section shall not be used to create any new program
7 or to fund any project or activity for which no funds are
8 provided in this Act: *Provided further*, That the Commit-
9 tees on Appropriations of the House of Representatives
10 and the Senate are notified at least 15 days in advance
11 of any transfer.

12 SEC. 103. In accordance with Executive Order
13 13126, none of the funds appropriated or otherwise made
14 available pursuant to this Act shall be obligated or ex-
15 pended for the procurement of goods mined, produced,
16 manufactured, or harvested or services rendered, in whole
17 or in part, by forced or indentured child labor in industries
18 and host countries already identified by the United States
19 Department of Labor prior to enactment of this Act.

20 SEC. 104. Except as otherwise provided in this sec-
21 tion, none of the funds made available to the Department
22 of Labor for grants under section 414(e) of the American
23 Competitiveness and Workforce Improvement Act of 1998
24 (29 U.S.C. 2916a) may be used for any purpose other
25 than competitive grants for training individuals who are

1 older than 16 years of age and are not currently enrolled
2 in school within a local educational agency in the occupa-
3 tions and industries for which employers are using H-1B
4 visas to hire foreign workers, and the related activities
5 necessary to support such training: *Provided*, That up to
6 \$13,000,000 of such funds shall be available for obligation
7 through September 30, 2017 to process permanent foreign
8 labor certifications under section 212(a)(5)(A) of the Im-
9 migration and Nationality Act (8 U.S.C. 1182(a)(5)(A)):
10 *Provided further*, That the funding limitation under this
11 section shall not apply to funding provided pursuant to
12 solicitations for grant applications issued before January
13 15, 2014.

14 SEC. 105. None of the funds made available by this
15 Act under the heading “Employment and Training Ad-
16 ministration” shall be used by a recipient or subrecipient
17 of such funds to pay the salary and bonuses of an indi-
18 vidual, either as direct costs or indirect costs, at a rate
19 in excess of Executive Level II. This limitation shall not
20 apply to vendors providing goods and services as defined
21 in Office of Management and Budget Circular A-133.
22 Where States are recipients of such funds, States may es-
23 tablish a lower limit for salaries and bonuses of those re-
24 ceiving salaries and bonuses from subrecipients of such
25 funds, taking into account factors including the relative

1 public: *Provided*, That this section shall not apply to lodg-
 2 ing and food services associated with seasonal recreation
 3 services.

4 SEC. 111. (a) FLEXIBILITY WITH RESPECT TO THE
 5 CROSSING OF H-2B NONIMMIGRANTS WORKING IN THE
 6 SEAFOOD INDUSTRY.—

7 (1) IN GENERAL.—Subject to paragraph (2), if
 8 a petition for H-2B nonimmigrants filed by an em-
 9 ployer in the seafood industry is granted, the em-
 10 ployer may bring the nonimmigrants described in
 11 the petition into the United States at any time dur-
 12 ing the 120-day period beginning on the start date
 13 for which the employer is seeking the services of the
 14 nonimmigrants without filing another petition.

15 (2) REQUIREMENTS FOR CROSSINGS AFTER
 16 90TH DAY.—An employer in the seafood industry
 17 may not bring H-2B nonimmigrants into the United
 18 States after the date that is 90 days after the start
 19 date for which the employer is seeking the services
 20 of the nonimmigrants unless the employer—

21 (A) completes a new assessment of the
 22 local labor market by—

23 (i) listing job orders in local news-
 24 papers on 2 separate Sundays; and

1 (ii) posting the job opportunity on the
 2 appropriate Department of Labor Elec-
 3 tronic Job Registry and at the employer's
 4 place of employment; and

5 (B) offers the job to an equally or better
 6 qualified United States worker who—

7 (i) applies for the job; and

8 (ii) will be available at the time and
 9 place of need.

10 (3) EXEMPTION FROM RULES WITH RESPECT
 11 TO STAGGERING.—The Secretary of Labor shall not
 12 consider an employer in the seafood industry who
 13 brings H-2B nonimmigrants into the United States
 14 during the 120-day period specified in paragraph (1)
 15 to be staggering the date of need in violation of sec-
 16 tion 655.20(d) of title 20, Code of Federal Regula-
 17 tions, or any other applicable provision of law.

18 (b) H-2B NONIMMIGRANTS DEFINED.—In this sec-
 19 tion, the term “H-2B nonimmigrants” means aliens ad-
 20 mitted to the United States pursuant to section
 21 101(a)(15)(II)(ii)(B) of the Immigration and Nationality
 22 Act (8 U.S.C. 1101(a)(15)(II)(ii)(B)).

23 SEC. 112. The determination of prevailing wage for
 24 the purposes of the H-2B program shall be the greater
 25 of—(1) the actual wage level paid by the employer to other

1 employees with similar experience and qualifications for
2 such position in the same location; or (2) the prevailing
3 wage level for the occupational classification of the posi-
4 tion in the geographic area in which the H-2B non-
5 immigrant will be employed, based on the best information
6 available at the time of filing the petition. In the deter-
7 mination of prevailing wage for the purposes of the H-
8 2B program, the Secretary shall accept private wage sur-
9 veys even in instances where Occupational Employment
10 Statistics survey data are available unless the Secretary
11 determines that the methodology and data in the provided
12 survey are not statistically supported.

13 SEC. 113. None of the funds in this Act shall be used
14 to enforce the definition of corresponding employment
15 found in 20 CFR 655.5 or the three-fourths guarantee
16 rule definition found in 20 CFR 655.20, or any references
17 thereto. Further, for the purpose of regulating admission
18 of temporary workers under the H-2B program, the defi-
19 nition of temporary need shall be that provided in 8 CFR
20 214.2(h)(6)(ii)(B).

21 SEC. 114. None of the funds in this Act shall be used
22 to implement 20 CFR 655.70 and 20 CFR 655.71.

23 This title may be cited as the “Department of Labor
24 Appropriations Act, 2016”.