

***In the House of Representatives, U. S.,***

*July 1, 2010.*

*Resolved,* That the House agree to the amendment of the Senate to the title of the bill (H.R. 4899) entitled “An Act making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes.” and be it further

*Resolved,* That the House agree to the amendment of the Senate to the text of the aforesaid bill, with the following

**HOUSE AMENDMENT TO SENATE AMENDMENT:**

In the matter proposed to be inserted by the amendment of the Senate to the text of the bill, on page 90, after line 18, insert the following:

1 *TITLE IV*

2 *CHAPTER 1*

3 *DEPARTMENT OF ENERGY*

4 *ENERGY PROGRAMS*

5 *TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE*

6 *PROGRAM*

7 *Subject to section 502 of the Congressional Budget Act*  
8 *of 1974, commitments to guarantee loans under title XVII*  
9 *of the Energy Policy Act of 2005, shall not exceed a total*  
10 *principal amount of \$18,000,000,000 for eligible projects,*  
11 *to remain available until committed, of which*

1 \$9,000,000,000 shall be for nuclear power facilities and  
2 \$9,000,000,000 shall be for renewable energy system and ef-  
3 ficient end-use energy technology projects: Provided, That  
4 these amounts are in addition to authorities provided in  
5 any other Act: Provided further, That for amounts collected  
6 pursuant to section 1702(b)(2) of the Energy Policy Act of  
7 2005, the source of such payment received from borrowers  
8 is not a loan or other debt obligation that is guaranteed  
9 by the Federal Government: Provided further, That none  
10 of the loan guarantee authority made available in this  
11 paragraph shall be available for commitments to guarantee  
12 loans for any projects where funds, personnel, or property  
13 (tangible or intangible) of any Federal agency, instrumen-  
14 tality, personnel, or affiliated entity are expected to be used  
15 (directly or indirectly) through acquisitions, contracts,  
16 demonstrations, exchanges, grants, incentives, leases, pro-  
17 curements, sales, other transaction authority, or other ar-  
18 rangements, to support the project or to obtain goods or  
19 services from the project: Provided further, That the pre-  
20 vious proviso shall not be interpreted as precluding the use  
21 of the loan guarantee authority in this paragraph for com-  
22 mitments to guarantee loans for projects as a result of such  
23 projects benefitting from (1) otherwise allowable Federal in-  
24 come tax benefits; (2) being located on Federal land pursu-  
25 ant to a lease or right-of-way agreement for which all con-

1 *sideration for all uses is (A) paid exclusively in cash, (B)*  
2 *deposited in the Treasury as offsetting receipts, and (C)*  
3 *equal to the fair market value as determined by the head*  
4 *of the relevant Federal agency; (3) Federal insurance pro-*  
5 *grams, including under section 170 of the Atomic Energy*  
6 *Act of 1954 (42 U.S.C. 2210; commonly known as the*  
7 *“Price-Anderson Act”); or (4) for electric generation*  
8 *projects, use of transmission facilities owned or operated by*  
9 *a Federal Power Marketing Administration or the Ten-*  
10 *nessee Valley Authority that have been authorized, ap-*  
11 *proved, and financed independent of the project receiving*  
12 *the guarantee: Provided further, That none of the loan guar-*  
13 *antee authority made available in this paragraph shall be*  
14 *available for any project unless the Director of the Office*  
15 *of Management and Budget has certified in advance in*  
16 *writing that the loan guarantee and the project comply with*  
17 *the provisions under this paragraph: Provided further, That*  
18 *none of the loan guarantee authority made available in this*  
19 *paragraph may be used to make a final or conditional loan*  
20 *guarantee award unless the Secretary of Energy provides*  
21 *notification of the award, including the proposed subsidy*  
22 *cost, to the Committees on Appropriations of the Senate and*  
23 *the House of Representatives at least 3 full business days*  
24 *in advance of such award: Provided further, That section*  
25 *3002 shall not apply to the amounts under this heading.*

1                    *DEPARTMENTAL ADMINISTRATION*

2            *For necessary expenses of the National Commission on*  
3 *the BP Deepwater Horizon Oil Spill and Offshore Drilling*  
4 *established by, and in order to carry out activities under,*  
5 *Executive Order 13543, \$12,000,000, to remain available*  
6 *until September 30, 2011: Provided, That funds appro-*  
7 *priated in this paragraph may be used to reimburse obliga-*  
8 *tions incurred for the purposes provided herein prior to en-*  
9 *actment of this Act.*

10                    *DEPARTMENT OF HOMELAND SECURITY*11                    *U.S. CUSTOMS AND BORDER PROTECTION*12                    *SALARIES AND EXPENSES*

13            *For an additional amount for “Salaries and Ex-*  
14 *penses”, \$356,900,000, to remain available until September*  
15 *30, 2012, of which \$78,000,000 shall be for costs to main-*  
16 *tain U.S. Customs and Border Protection Officer staffing*  
17 *on the Southwest Border of the United States, \$58,000,000*  
18 *shall be for hiring additional U.S. Customs and Border*  
19 *Protection Officers for deployment at ports of entry on the*  
20 *Southwest Border of the United States, \$208,400,000 shall*  
21 *be for hiring additional Border Patrol agents for deploy-*  
22 *ment to the Southwest Border of the United States,*  
23 *\$2,500,000 shall be for forward operating bases on the*  
24 *Southwest Border of the United States, and \$10,000,000*

1 *shall be to support integrity and background investigation*  
2 *programs.*

3 *BORDER SECURITY FENCING, INFRASTRUCTURE, AND*  
4 *TECHNOLOGY*

5 *For an additional amount for “Border Security Fenc-*  
6 *ing, Infrastructure, and Technology,” \$14,000,000, to re-*  
7 *main available until September 30, 2011, for costs of de-*  
8 *signing, building, and deploying tactical communications*  
9 *for support of enforcement activities on the Southwest Bor-*  
10 *der of the United States.*

11 *AIR AND MARINE INTERDICTION, OPERATIONS,*  
12 *MAINTENANCE, AND PROCUREMENT*

13 *For an additional amount for “Air and Marine Inter-*  
14 *dition, Operations, Maintenance, and Procurement”,*  
15 *\$32,000,000, to remain available until September 30, 2012,*  
16 *for costs of acquisition and deployment of unmanned air-*  
17 *craft systems.*

18 *CONSTRUCTION AND FACILITIES MANAGEMENT*

19 *For an additional amount for “Construction and Fa-*  
20 *ilities Management”, \$9,000,000, to remain available until*  
21 *September 30, 2011, for costs to construct up to three for-*  
22 *ward operating bases for use by the Border Patrol to carry*  
23 *out enforcement activities on the Southwest Border of the*  
24 *United States.*

1           *U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT*

2                           *SALARIES AND EXPENSES*

3           *For an additional amount for ‘Salaries and Expenses’,*  
4 *\$30,000,000, to remain available until September 30, 2011,*  
5 *for law enforcement activities targeted at reducing the*  
6 *threat of violence along the Southwest Border of the United*  
7 *States.*

8                           *FEDERAL EMERGENCY MANAGEMENT AGENCY*

9                           *STATE AND LOCAL PROGRAMS*

10          *For an additional amount for “State and Local Pro-*  
11 *grams”, \$50,000,000 to remain available until September*  
12 *30, 2011, for Operation Stonegarden.*

13                          *FEDERAL LAW ENFORCEMENT TRAINING CENTER*

14                           *SALARIES AND EXPENSES*

15          *For an additional amount for “Salaries and Ex-*  
16 *penses”, \$8,100,000, to remain available until September*  
17 *30, 2011, for costs to provide basic training for new U.S.*  
18 *Customs and Border Protection Officers and Border Patrol*  
19 *agents.*

20                            *DEPARTMENT OF EDUCATION*

21                            *EDUCATION JOBS FUND*

22          *For necessary expenses for an Education Jobs Fund,*  
23 *\$10,000,000,000: Provided, That section 3002 shall not*  
24 *apply to \$1,300,000,000 of the amount under this heading:*  
25 *Provided further, That the amount under this heading shall*

1 *be administered under the terms and conditions of sections*  
2 *14001 through 14013 and title XV of division A of the*  
3 *American Recovery and Reinvestment Act of 2009 (Public*  
4 *Law 111–5) except as follows:*

5 (1) *ALLOCATION OF FUNDS.—*

6 (A) *Funds appropriated under this heading*  
7 *shall be available only for allocation by the Sec-*  
8 *retary of Education (in this heading referred to*  
9 *as the “Secretary”) in accordance with sub-*  
10 *sections (a), (b), (d), (e), and (f) of section 14001*  
11 *of division A of Public Law 111–5 and subpara-*  
12 *graph (B) of this paragraph, except that the*  
13 *amount reserved under such subsection (b) shall*  
14 *not exceed \$1,000,000 and such subsection (f)*  
15 *shall be applied by substituting “one year” for*  
16 *“two years”.*

17 (B) *Prior to allocating funds to States*  
18 *under section 14001(d) of division A of Public*  
19 *Law 111–5, the Secretary shall allocate 0.5 per-*  
20 *cent to the Secretary of the Interior for schools*  
21 *operated or funded by the Bureau of Indian Af-*  
22 *airs on the basis of the schools’ respective needs*  
23 *for activities consistent with this heading under*  
24 *such terms and conditions as the Secretary of the*  
25 *Interior may determine.*

1           (2) *RESERVATION.*—A State that receives an al-  
2           location of funds appropriated under this heading  
3           may reserve not more than 2 percent for the adminis-  
4           trative costs of carrying out its responsibilities with  
5           respect to those funds.

6           (3) *AWARDS TO LOCAL EDUCATIONAL AGEN-*  
7           *CIES.*—

8                   (A) *Except as specified in paragraph (2),*  
9                   *an allocation of funds to a State shall be used*  
10                   *only for awards to local educational agencies for*  
11                   *the support of elementary and secondary edu-*  
12                   *cation in accordance with paragraph (5) for the*  
13                   *2010–2011 school year (or, in the case of re-*  
14                   *allocations made under section 14001(f) of divi-*  
15                   *sion A of Public Law 111–5, for the 2010–2011*  
16                   *or the 2011–2012 school year).*

17                   (B) *Funds used to support elementary and*  
18                   *secondary education shall be distributed through*  
19                   *a State’s primary elementary and secondary*  
20                   *funding formulae or based on local educational*  
21                   *agencies’ relative shares of funds under part A of*  
22                   *title I of the Elementary and Secondary Edu-*  
23                   *cation Act of 1965 (20 U.S.C. 6311 et seq.) for*  
24                   *the most recent fiscal year for which data are*  
25                   *available.*



1           (C) Subsections (a) and (b) of section 14002  
2           of division A of Public Law 111–5 shall not  
3           apply to funds appropriated under this heading.

4           (4) COMPLIANCE WITH EDUCATION REFORM AS-  
5           SURANCES.—For purposes of awarding funds appro-  
6           priated under this heading, any State that has an ap-  
7           proved application for Phase II of the State Fiscal  
8           Stabilization Fund that was submitted in accordance  
9           with the application notice published in the Federal  
10          Register on November 17, 2009 (74 Fed. Reg. 59142)  
11          shall be deemed to be in compliance with subsection  
12          (b) and paragraphs (2) through (5) of subsection (d)  
13          of section 14005 of division A of Public Law 111–5.

14          (5) REQUIREMENT TO USE FUNDS TO RETAIN OR  
15          CREATE EDUCATION JOBS.—Notwithstanding section  
16          14003(a) of division A of Public Law 111–5, funds  
17          awarded to local educational agencies under para-  
18          graph (3)—

19                 (A) may be used only for compensation and  
20                 benefits and other expenses, such as support serv-  
21                 ices, necessary to retain existing employees, to  
22                 recall or rehire former employees, and to hire  
23                 new employees, in order to provide early child-  
24                 hood, elementary, or secondary educational and  
25                 related services; and

1           (B) may not be used for “general adminis-  
2           trative expenses” or for “other support services  
3           expenditures” as those terms were defined by the  
4           National Center for Education Statistics in its  
5           Common Core of Data as of the date of enact-  
6           ment of this Act.

7           (6) *PROHIBITION ON USE OF FUNDS FOR RAINY-  
8           DAY FUNDS OR DEBT RETIREMENT.*—A State that re-  
9           ceives an allocation may not use such funds, directly  
10          or indirectly, to—

11           (A) establish, restore, or supplement a  
12          rainy-day fund;

13           (B) supplant State funds in a manner that  
14          has the effect of establishing, restoring, or  
15          supplementing a rainy-day fund;

16           (C) reduce or retire debt obligations in-  
17          curred by the State; or

18           (D) supplant State funds in a manner that  
19          has the effect of reducing or retiring debt obliga-  
20          tions incurred by the State.

21          (7) *DEADLINE FOR AWARD.*—The Secretary shall  
22          award funds appropriated under this heading not  
23          later than 45 days after the date of the enactment of  
24          this Act to States that have submitted applications  
25          meeting the requirements applicable to funds under

1        *this heading. The Secretary shall not require informa-*  
2        *tion in applications beyond what is necessary to de-*  
3        *termine compliance with applicable provisions of law.*

4            (8) *ALTERNATE DISTRIBUTION OF FUNDS.—If,*  
5        *within 30 days after the date of the enactment of this*  
6        *Act, a Governor has not submitted an approvable ap-*  
7        *plication, the Secretary shall provide for funds allo-*  
8        *cated to that State to be distributed to another entity*  
9        *or other entities in the State (notwithstanding section*  
10       *14001(e) of division A of Public Law 111–5) for sup-*  
11       *port of elementary and secondary education, under*  
12       *such terms and conditions as the Secretary may es-*  
13       *tablish, provided that all terms and conditions that*  
14       *apply to funds appropriated under this heading shall*  
15       *apply to such funds distributed to such entity or enti-*  
16       *ties. No distribution shall be made to a State under*  
17       *this paragraph, however, unless the Secretary has de-*  
18       *termined (on the basis of such information as may be*  
19       *available) that the requirements of clauses (i), (ii), or*  
20       *(iii) of paragraph 10(A) are likely to be met, notwith-*  
21       *standing the lack of an application from the Governor*  
22       *of that State.*

23            (9) *LOCAL EDUCATIONAL AGENCY APPLICA-*  
24        *TION.—Section 442 of the General Education Provi-*  
25        *sions Act shall not apply to a local educational agen-*

1        *cy that has previously submitted an application to*  
2        *the State under title XIV of division A of Public Law*  
3        *111–5. The assurances provided under that applica-*  
4        *tion shall continue to apply to funds awarded under*  
5        *this heading.*

6            (10) *MAINTENANCE OF EFFORT.—*

7            (A) *Except as provided in paragraph (8),*  
8        *the Secretary shall not allocate funds to a State*  
9        *under paragraph (1) unless the Governor of the*  
10        *State provides an assurance to the Secretary*  
11        *that—*

12            (i) *for State fiscal year 2011, the State*  
13        *will maintain State support for elementary*  
14        *and secondary education (in the aggregate*  
15        *or on the basis of expenditures per pupil)*  
16        *and for public institutions of higher edu-*  
17        *cation (not including support for capital*  
18        *projects or for research and development or*  
19        *tuition and fees paid by students) at not*  
20        *less than the level of such support for each*  
21        *of the two categories, respectively, for State*  
22        *fiscal year 2009;*

23            (ii) *for State fiscal year 2011, the*  
24        *State will maintain State support for ele-*  
25        *mentary and secondary education and for*

1            *public institutions of higher education (not*  
2            *including support for capital projects or for*  
3            *research and development or tuition and*  
4            *fees paid by students) at a percentage of the*  
5            *total revenues available to the State that is*  
6            *equal to or greater than the percentage pro-*  
7            *vided for each of the two categories, respec-*  
8            *tively, for State fiscal year 2010; or*

9            *(iii) in the case of a State in which*  
10           *State tax collections for calendar year 2009*  
11           *were less than State tax collections for cal-*  
12           *endar year 2006, for State fiscal year 2011*  
13           *the State will maintain State support for*  
14           *elementary and secondary education (in the*  
15           *aggregate) and for public institutions of*  
16           *higher education (not including support for*  
17           *capital projects or for research and develop-*  
18           *ment or tuition and fees paid by stu-*  
19           *dents)—*

20           *(I) at not less than the level of*  
21           *such support for each of the two cat-*  
22           *egories, respectively, for State fiscal*  
23           *year 2006; or*

24           *(II) at a percentage of the total*  
25           *revenues available to the State that is*

1                    *equal to or greater than the percentage*  
2                    *provided for each of the two categories,*  
3                    *respectively, for State fiscal year 2006.*

4                    *(B) Section 14005(d)(1) and subsections (a)*  
5                    *through (c) of section 14012 of division A of*  
6                    *Public Law 111–5 shall not apply to funds ap-*  
7                    *propriated under this heading.*

8                    *(11) ADDITIONAL REQUIREMENTS FOR THE*  
9                    *STATE OF TEXAS.—The following requirements shall*  
10                    *apply to the State of Texas:*

11                    *(A) Notwithstanding paragraph (3)(B),*  
12                    *funds used to support elementary and secondary*  
13                    *education shall be distributed based on local edu-*  
14                    *cational agencies' relative shares of funds under*  
15                    *part A of title I of the Elementary and Sec-*  
16                    *ondary Education Act of 1965 (20 U.S.C. 6311*  
17                    *et seq.) for the most recent fiscal year which data*  
18                    *are available. Funds distributed pursuant to this*  
19                    *paragraph shall be used to supplement and not*  
20                    *supplant State formula funding that is distrib-*  
21                    *uted on a similar basis to part A of title I of the*  
22                    *Elementary and Secondary Education Act of*  
23                    *1965 (20 U.S.C. 6311 et seq.).*

24                    *(B) The Secretary shall not allocate funds*  
25                    *to the State of Texas under paragraph (1) unless*

1           *the Governor of the State provides an assurance*  
2           *to the Secretary that the State will for fiscal*  
3           *years 2011, 2012, and 2013 maintain State sup-*  
4           *port for elementary and secondary education at*  
5           *a percentage of the total revenues available to the*  
6           *State that is equal to or greater than the per-*  
7           *centage provided for such purpose for fiscal year*  
8           *2011 prior to the enactment of this Act.*

9           *(C) Notwithstanding paragraph (8), no dis-*  
10          *tribution shall be made to the State of Texas or*  
11          *local education agencies therein unless the Gov-*  
12          *ernor of Texas makes an assurance to the Sec-*  
13          *retary that the requirements in paragraphs*  
14          *(11)(A) and (11)(B) will be met, notwith-*  
15          *standing the lack of an application from the*  
16          *Governor of Texas.*

17                    *STUDENT FINANCIAL ASSISTANCE*

18          *For an additional amount for “Student Financial As-*  
19          *sistance”, \$4,950,000,000, to remain available through Sep-*  
20          *tember 30, 2011, to carry out subpart 1 of part A of title*  
21          *IV of the Higher Education Act of 1965: Provided, That*  
22          *section 3002 shall not apply to the amount under this head-*  
23          *ing.*

1                    *DEPARTMENT OF DEFENSE*2                    *MILITARY CONSTRUCTION, ARMY*

3            *For an additional amount for “Military Construction,*  
4 *Army”, \$16,500,000, to remain available until September*  
5 *30, 2011, for a soldier readiness processing center: Provided,*  
6 *That notwithstanding any other provision of law, such*  
7 *funds may be obligated and expended to carry out planning*  
8 *and design and military construction projects not otherwise*  
9 *authorized by law: Provided further, That section 3002 shall*  
10 *not apply to the amount under this heading.*

11                    *GENERAL PROVISIONS—THIS CHAPTER*

12            *SEC. 4101. For an additional amount for the emer-*  
13 *gency food assistance program as authorized by section*  
14 *27(a) of the Food and Nutrition Act of 2008 (7 U.S.C.*  
15 *2036(a)) and section 204(a)(1) of the Emergency Food As-*  
16 *sistance Act of 1983 (7 U.S.C. 7508(a)(1)), \$50,000,000:*  
17 *Provided, That section 3002 shall not apply to the amount*  
18 *in this section.*

19                    *(RESCISSION)*

20            *SEC. 4102. There is rescinded from accounts under the*  
21 *heading “Department of Agriculture—Natural Resources*  
22 *Conservation Service”, \$69,900,000, to be derived from the*  
23 *unobligated balances of funds that were provided for such*  
24 *accounts in prior appropriation Acts (other than Public*  
25 *Law 111–5) and that were designated by the Congress in*  
26 *such Acts as an emergency requirement pursuant to a con-*



1 *current resolution on the budget or the Balanced Budget*  
2 *and Emergency Deficit Control Act of 1985.*

3 (RESCISSION)

4 SEC. 4103. *There is rescinded from accounts under the*  
5 *heading “Department of Agriculture—Rural Development”,*  
6 *\$122,000,000, to be derived from the unobligated balances*  
7 *of funds that were provided for such accounts in prior ap-*  
8 *propriation Acts (other than Public Law 111–5) and that*  
9 *were designated by the Congress in such Acts as an emer-*  
10 *gency requirement pursuant to a concurrent resolution on*  
11 *the budget or the Balanced Budget and Emergency Deficit*  
12 *Control Act of 1985.*

13 (RESCISSION)

14 SEC. 4104. *Of the funds made available for “Depart-*  
15 *ment of Agriculture—Rural Utilities Service—Distance*  
16 *Learning, Telemedicine, and Broadband Program” in title*  
17 *I of division A of Public Law 111–5 (123 Stat. 118),*  
18 *\$300,000,000 is rescinded.*

19 (RESCISSION)

20 SEC. 4105. *There is rescinded from accounts under the*  
21 *heading “Department of Agriculture—Food and Nutrition*  
22 *Service—Special Supplemental Nutrition Program for*  
23 *Women, Infants, and Children (WIC)”, \$361,825,000, to be*  
24 *derived from unobligated balances available from amounts*  
25 *placed in reserve in title I of division A of Public Law 111–*  
26 *5 (123 Stat. 115).*

1 (RESCISSION)

2 SEC. 4106. *Of the unobligated balances available for*  
3 *“Department of Agriculture—Food and Nutrition Serv-*  
4 *ice—Special Supplemental Nutrition Program for Women,*  
5 *Infants, and Children (WIC)” as authorized by section 17*  
6 *of the Child Nutrition Act of 1966 (42 U.S.C. 1786),*  
7 *\$125,000,000 is rescinded: Provided, That section 3002*  
8 *shall not apply to the amount in this section.*

9 (RESCISSION)

10 SEC. 4107. *Of the funds appropriated under the head-*  
11 *ing “Department of Commerce—National Institute of*  
12 *Standards and Technology—Construction of Research Fa-*  
13 *cilities” in title II of division A of Public Law 111–5 (123*  
14 *Stat. 129) \$15,000,000 is rescinded.*

15 (RESCISSION)

16 SEC. 4108. *Of the funds made available for “Depart-*  
17 *ment of Commerce—National Telecommunications and In-*  
18 *formation Administration—Broadband Technology Oppor-*  
19 *tunities Program” in title II of division A of Public Law*  
20 *111–5, \$302,000,000 is rescinded.*

21 SEC. 4109. *For an additional amount for the Depart-*  
22 *ment of Justice for necessary expenses for increased law en-*  
23 *forcement activities related to Southwest border enforce-*  
24 *ment, \$201,000,000, to remain available until September*  
25 *30, 2011: Provided, That funds shall be distributed to the*  
26 *following accounts and in the following specified amounts:*

1           (1) “*Administrative Review and Appeals*”,  
2           \$2,118,000;

3           (2) “*Detention Trustee*”, \$7,000,000;

4           (3) “*Legal Activities, Salaries and Expenses,*  
5           *General Legal Activities*”, \$3,862,000;

6           (4) “*Legal Activities, Salaries and Expenses,*  
7           *United States Attorneys*”, \$9,198,000;

8           (5) “*United States Marshals Service, Salaries*  
9           *and Expenses*”, \$29,651,000;

10          (6) “*United States Marshals Service, Construc-*  
11          *tion*”, \$8,000,000;

12          (7) “*Interagency Law Enforcement, Interagency*  
13          *Crime and Drug Enforcement*”, \$21,000,000;

14          (8) “*Federal Bureau of Investigation, Salaries*  
15          *and Expenses*”, \$25,262,000;

16          (9) “*Drug Enforcement Administration, Salaries*  
17          *and Expenses*”, \$35,805,000;

18          (10) “*Bureau of Alcohol, Tobacco, Firearms and*  
19          *Explosives, Salaries and Expenses*”, \$39,104,000; and

20          (11) “*Federal Prison System, Salaries and Ex-*  
21          *penses*”, \$20,000,000.

22          SEC. 4110. Section 8005 of the Department of Defense  
23          Appropriations Act, 2010 (division A of Public Law 111–  
24          118) is amended by striking the dollar amount specified  
25          in such section and inserting “\$6,000,000,000”: Provided,

1 *That section 3002 shall not apply to the amount in this*  
2 *section: Provided further, That the amendment made by this*  
3 *section shall apply in lieu of any amendment made by an-*  
4 *other provision of this Act to such dollar amount.*

5 *SEC. 4111. With respect to the multiyear procurement*  
6 *of F/A-18E, F/A-18F, and EA-18G aircraft—*

7 *(1) section 8011 of division A of Public Law*  
8 *111-118 is amended by striking “within 30 days of*  
9 *enactment of this Act” and inserting “30 days prior*  
10 *to contract award”;*

11 *(2) the term “March 1 of the year in which the*  
12 *Secretary requests legislative authority to enter into*  
13 *such contract,” in section 2306b(i)(1) of title 10,*  
14 *United States Code, and section 128(a)(2) of Public*  
15 *Law 111-84, shall be deemed to be a reference to Sep-*  
16 *tember 1, 2010;*

17 *(3) the Secretary of Defense may submit the re-*  
18 *port identified in section 2306b(l)(4) of title 10,*  
19 *United States Code, to the congressional defense com-*  
20 *mittees on or before September 1, 2010; and*

21 *(4) the authority provided in section 8011 of*  
22 *Public Law 111-118 and section 128(a) of Public*  
23 *Law 111-84, as amended by this section, shall sat-*  
24 *isfy, with respect to the procurement of F/A-18E, F/*  
25 *A-18F, and EA-18G aircraft, the requirements of*

1        *sections 2306b(i)(3) and 2306b(l)(3) of title 10,*  
2        *United States Code, that a multiyear contract be au-*  
3        *thorized by law in an appropriations Act and an Act*  
4        *other than an appropriations Act.*

5        *SEC. 4112. For all major defense acquisition programs*  
6        *for which the Department of Defense plans to proceed to*  
7        *source selection during the current fiscal year and fiscal*  
8        *year 2011, the Secretary of Defense shall perform an assess-*  
9        *ment of such programs and the proposals of all bidders to*  
10       *determine whether or not the costs are realistic and reason-*  
11       *able with respect to expected industry development and pro-*  
12       *duction costs: Provided, That the assessments shall address*  
13       *whether the programs and proposals of all bidders are at*  
14       *fair market value: Provided further, That the Secretary of*  
15       *Defense shall provide an assessment of the programs and*  
16       *proposals of all bidders to determine the number of jobs,*  
17       *including an estimate of development and direct manufac-*  
18       *turing jobs, supported or lost in the United States of Amer-*  
19       *ica: Provided further, That jobs supported or lost shall be*  
20       *measured as full time equivalent personnel: Provided fur-*  
21       *ther, That the Secretary of Defense shall provide a report,*  
22       *in consultation with the Secretary of Labor, containing the*  
23       *results of these assessments to the congressional defense com-*  
24       *mittees not later than 60 days after enactment of this Act*  
25       *and on a quarterly basis thereafter.*

1 (INCLUDING RESCISSION)

2 SEC. 4113. (a) In addition to the amounts provided  
3 elsewhere in this Act, there is appropriated \$300,000,000  
4 for an additional amount for “Operation and Maintenance,  
5 Defense-Wide”, to remain available until expended. Such  
6 funds may be available for the Office of Economic Adjust-  
7 ment, notwithstanding any other provision of law, for  
8 transportation infrastructure improvements associated with  
9 medical facilities related to recommendations of the Defense  
10 Base Closure and Realignment Commission.

11 (b) Of the funds appropriated for “Defense Health Pro-  
12 gram” in title VI of division A of Public Law 111–118,  
13 \$300,000,000 is rescinded, to be derived from amounts for  
14 operation and maintenance.

15 (c) Section 3002 shall not apply to the amounts in  
16 this section.

17 (RESCISSION)

18 SEC. 4114. (a) Of the funds appropriated in Depart-  
19 ment of Defense Appropriations Acts, the following funds  
20 are rescinded from the following accounts in the specified  
21 amounts:

22 “Shipbuilding and Conversion, Navy, 2006/  
23 2010”, \$107,000,000;

24 “Aircraft Procurement, Army, 2008/2010”,  
25 \$21,000,000;

1           *“Procurement of Weapons and Tracked Combat*  
2           *Vehicles, Army, 2008/2010”*, \$21,000,000;

3           *“Procurement of Ammunition, Army, 2008/*  
4           *2010”*, \$17,000,000;

5           *“Other Procurement, Army, 2008/2010”*,  
6           \$75,000,000;

7           *“Aircraft Procurement, Navy, 2008/2010”*,  
8           \$166,000,000;

9           *“Weapons Procurement, Navy, 2008/2010”*,  
10          \$26,000,000;

11          *“Other Procurement, Navy, 2008/2010”*,  
12          \$42,000,000;

13          *“Procurement, Marine Corps, 2008/2010”*,  
14          \$13,000,000;

15          *“Aircraft Procurement, Air Force, 2008/2010”*,  
16          \$102,000,000;

17          *“Missile Procurement, Air Force, 2008/2010”*,  
18          \$28,000,000;

19          *“Procurement of Ammunition, Air Force, 2008/*  
20          *2010”*, \$7,000,000;

21          *“Other Procurement, Air Force, 2008/2010”*,  
22          \$130,000,000;

23          *“Procurement, Defense-Wide, 2008/2010”*,  
24          \$33,000,000;

1           *“Research, Development, Test and Evaluation,*  
2           *Army, 2009/2010”*, \$76,000,000;

3           *“Research, Development, Test and Evaluation,*  
4           *Navy, 2009/2010”*, \$131,000,000;

5           *“Research, Development, Test and Evaluation,*  
6           *Air Force, 2009/2010”*, \$164,000,000;

7           *“Research, Development, Test and Evaluation,*  
8           *Defense-Wide, 2009/2010”*, \$137,000,000;

9           *“Operation, Test and Evaluation, Defense, 2009/*  
10          *2010”*, \$1,000,000;

11          *“Operation and Maintenance, Army, 2010”*,  
12          \$154,000,000;

13          *“Operation and Maintenance, Navy, 2010”*,  
14          \$155,000,000;

15          *“Operation and Maintenance, Marine Corps,*  
16          *2010”*, \$25,000,000;

17          *“Operation and Maintenance, Air Force, 2010”*,  
18          \$155,000,000;

19          *“Operation and Maintenance, Defense-Wide,*  
20          *2010”*, \$126,000,000;

21          *“Operation and Maintenance, Army Reserve,*  
22          *2010”*, \$12,000,000;

23          *“Operation and Maintenance, Navy Reserve,*  
24          *2010”*, \$6,000,000;





1           *“Operation and Maintenance, Navy Reserve,*  
2           *2009/2010”*, \$8,000,000;

3           *“Operation and Maintenance, Marine Corps Re-*  
4           *serve, 2009/2010”*, \$1,000,000;

5           *“Operation and Maintenance, Air Force Reserve,*  
6           *2009/2010”*, \$2,000,000;

7           *“Operation and Maintenance, Army National*  
8           *Guard, 2009/2010”*, \$1,000,000;

9           *“Operation and Maintenance, Air National*  
10          *Guard, 2009/2010”*, \$2,500,000; and

11          *“Defense Health Program, 2009/2010”*,  
12          \$27,000,000.

13          ***(b) Of the funds appropriated in the Supplemental Ap-***  
14          ***propriations Act, 2008 (Public Law 110–252), the following***  
15          ***funds are rescinded from the following account in the speci-***  
16          ***fied amount:***

17                 *“Procurement, Marine Corps, 2008/2010”*,  
18                 \$177,180,000.

19          ***(INCLUDING TRANSFER OF FUNDS AND RESCISSIONS)***

20          ***SEC. 4116. (a) In addition to amounts provided else-***  
21          ***where in this Act, there is appropriated \$163,000,000 for***  
22          ***an additional amount for “Operation and Maintenance,***  
23          ***Defense-Wide”***, to remain available until expended: Pro-  
24          ***vided, That such funds shall only be available to the Sec-***  
25          ***retary of Defense, acting through the Office of Economic Ad-***

1 *justment of the Department of Defense, or for transfer to*  
2 *the Secretary of Education, notwithstanding any other pro-*  
3 *vision of law, to make grants, conclude cooperative agree-*  
4 *ments, or supplement other Federal funds to construct, ren-*  
5 *ovate, repair, or expand elementary and secondary public*  
6 *schools on military installations in order to address capac-*  
7 *ity or facility condition deficiencies at such schools: Pro-*  
8 *vided further, That in making such funds available, the Of-*  
9 *fice of Economic Adjustment or the Secretary of Education*  
10 *shall give priority consideration to those military installa-*  
11 *tions with schools having the most serious capacity or facil-*  
12 *ity condition deficiencies as determined by the Secretary*  
13 *of Defense.*

14       *(b)(1) Of the funds appropriated for “Procurement of*  
15 *Weapons and Tracked Combat Vehicles, Army” in title III*  
16 *of division A of public Law 111–118, \$116,000,000 is re-*  
17 *scinded.*

18       *(2) Of the funds appropriated under the heading “Op-*  
19 *eration and Maintenance, Army” in title II of division A*  
20 *of Public Law 111–118, \$100,000,000 is rescinded.*

21       *(3) Of the funds appropriated for “Other Procurement,*  
22 *Army” in title III of division C of Public Law 110–329,*  
23 *\$87,000,000 is rescinded.*

24       *(c) Section 3002 shall not apply to amounts in this*  
25 *section.*

1       *SEC. 4117. (a) SPECIFIC APPROPRIATION OR CON-*  
2 *TRIBUTION.—Section 1702 of the Energy Policy Act of 2005*  
3 *(42 U.S.C. 16512) is amended—*

4             *(1) by striking subsection (b) and inserting the*  
5 *following:*

6       “(b) *SPECIFIC APPROPRIATION OR CONTRIBUTION.—*

7             “(1) *IN GENERAL.—No guarantee shall be made*  
8 *unless—*

9             “(A) *an appropriation for the cost of the*  
10 *guarantee has been made;*

11            “(B) *the Secretary has received from the*  
12 *borrower a payment in full for the cost of the*  
13 *guarantee and deposited the payment into the*  
14 *Treasury; or*

15            “(C) *a combination of one or more appro-*  
16 *priations under subparagraph (A) and one or*  
17 *more payments from the borrower under sub-*  
18 *paragraph (B) has been made that is sufficient*  
19 *to cover the cost of the guarantee.*

20            “(2) *LIMITATION.—The source of payments re-*  
21 *ceived from a borrower under paragraph (1)(B) or*  
22 *(C) shall not be a loan or other debt obligation that*  
23 *is made or guaranteed by the Federal Government.”;*  
24 *and*

25            *(2) by adding at the end the following:*

1           “(l) *CREDIT REPORT.*—If, in the opinion of the Sec-  
2 retary, a third-party credit rating of the applicant or  
3 project is not necessary for the Secretary to begin review  
4 of an application, the project costs are not projected to ex-  
5 ceed \$100,000,000, and the applicant agrees to accept the  
6 credit rating assigned to the applicant by the Secretary,  
7 the Secretary may waive an otherwise applicable require-  
8 ment (including any requirement described in part 609 of  
9 title 10, Code of Federal Regulations) to provide a third-  
10 party credit report with an application, provided that the  
11 Secretary requires a third party credit report prior to  
12 issuance of a conditional commitment for a guarantee.

13           “(m) *MULTIPLE SITES.*—Notwithstanding any con-  
14 trary requirement (including any provision under part 609  
15 of title 10, Code of Federal Regulations) an eligible project  
16 may be located on two or more non-contiguous sites in the  
17 United States.”.

18           (b) *APPLICATIONS FOR MULTIPLE ELIGIBLE*  
19 *PROJECTS.*—Section 1705 of the Energy Policy Act of 2005  
20 (42 U.S.C. 16516) is amended—

- 21           (1) by redesignating subsection (e) as subsection  
22           (f); and  
23           (2) by inserting after subsection (d) the fol-  
24           lowing:

1       “(e) *MULTIPLE APPLICATIONS.*—Notwithstanding any  
2 *contrary requirement (including any provision under part*  
3 *609.3(a) of title 10, Code of Federal Regulations), a project*  
4 *applicant or sponsor of an eligible project may submit an*  
5 *application for more than one eligible project under this*  
6 *section.*”.

7       (c) *ENERGY EFFICIENCY LOAN GUARANTEES.*—Sec-  
8 *tion 1705(a) of the Energy Policy Act of 2005 (42 U.S.C.*  
9 *16516(a)) is amended by adding at the end the following:*

10               “(4) *Efficient end-use energy technologies.*

11               “(5) *Combined heat and power or industrial*  
12 *waste energy recovery projects.*”.

13       (d) *ADMINISTRATIVE COSTS.*—Section 136 of the *En-*  
14 *ergy Independence and Security Act of 2007 (42 U.S.C.*  
15 *17013) is amended by striking subsection (f) and inserting*  
16 *the following:*

17               “(f) *FEEES.*—The Secretary is authorized to  
18 *charge and collect fees from applicants for or recipi-*  
19 *ents of an award or loan to cover administrative*  
20 *costs. For any given loan or award, such fees shall*  
21 *not exceed \$100,000 or 10 basis points of the loan or*  
22 *award. In addition to the foregoing fees, the Secretary*  
23 *may require applicants for and recipients of an*  
24 *award or loan under this section to pay directly, or*  
25 *through the payment of fees to be used by the Sec-*







1        *tions Acts under the heading “Department of En-*  
2        *ergy—Strategic Petroleum Reserve”, including*  
3        *\$14,493,000 provided in Public Law 110–161 for new*  
4        *site land acquisition activities; \$31,507,000 provided*  
5        *in Public Law 111–8 for new site expansion activi-*  
6        *ties, beyond land acquisition; and \$25,000,000 pro-*  
7        *vided in Public Law 111–85.*

8                *(3) \$20,000,000, to be derived from unobligated*  
9        *balances of funds made available in prior appropria-*  
10        *tions Acts under the heading “Department of En-*  
11        *ergy—Nuclear Energy”.*

12        *(b) Section 3002 shall not apply to amounts in this*  
13        *section.*

14                                *(RESCISSION)*

15        *SEC. 4121. Of the unobligated balances of funds pro-*  
16        *vided under the heading “Nuclear Regulatory Commission”*  
17        *in prior appropriations Acts, \$18,000,000 is permanently*  
18        *rescinded: Provided, That section 3002 shall not apply to*  
19        *the amount in this section.*

20                                *(RESCISSION)*

21        *SEC. 4122. From unobligated balances of prior year*  
22        *appropriations made available to “Domestic Nuclear Detec-*  
23        *tion Office—Systems Acquisition”, \$50,000,000 is re-*  
24        *scinded: Provided, That section 3002 shall not apply to the*  
25        *amount in this section.*



1 (INCLUDING TRANSFER OF FUNDS)

2 SEC. 4125. (a) *The Secretary of Homeland Security*  
3 *may transfer to the Secretary of the Interior amounts avail-*  
4 *able for environmental mitigation requirements for “U.S.*  
5 *Customs and Border Protection—Border Security Fencing,*  
6 *Infrastructure, and Technology” for fiscal year 2009 or*  
7 *thereafter, for use by the Secretary of the Interior under*  
8 *laws administered by such Secretary to mitigate adverse en-*  
9 *vironmental impacts, including impact on species listed*  
10 *under the Endangered Species Act of 1973 (16 U.S.C. 1531*  
11 *et seq.) resulting from construction, operation, and mainte-*  
12 *nance activities related to border security.*

13 (b) *Uses of funds authorized by this section include ac-*  
14 *quisition of land or interests in land that will, in the judg-*  
15 *ment of the Secretary of the Interior, mitigate or off-set such*  
16 *adverse impacts.*

17 (c) *Any funds transferred under this section shall be*  
18 *used in accordance with an agreement between the Secre-*  
19 *taries.*

20 (d) *Not later than September 30, 2010, and on an an-*  
21 *nual basis thereafter, the Secretary of the Interior shall sub-*  
22 *mit to the Committees on Appropriations of the Senate and*  
23 *the House of Representatives a report that describes in de-*  
24 *tail the actions taken in the preceding year with amounts*  
25 *transferred under this section.*

1 (RESCISSION)

2 SEC. 4126. From unobligated balances of prior year  
3 appropriations made available for “Transportation Secu-  
4 rity Administration—Aviation Security” in chapter 5 of  
5 title III of Public Law 110–28, \$6,600,000 is rescinded.

6 (RESCISSION)

7 SEC. 4127. From unobligated balances of prior year  
8 appropriations made available for “United States Coast  
9 Guard—Acquisition, Construction, and Improvements” in  
10 chapter 4 of title I of division B of Public Law 109–148,  
11 \$3,000,000 is rescinded.

12 (RESCISSION)

13 SEC. 4128. From unobligated balances of prior year  
14 appropriations made available for “United States Coast  
15 Guard—Acquisition, Construction, and Improvements” in  
16 chapter 4 of title II of Public Law 109–234, \$4,000,000 is  
17 rescinded.

18 (RESCISSION)

19 SEC. 4129. From unobligated balances of prior year  
20 appropriations made available for “Federal Emergency  
21 Management Agency—Administrative and Regional Oper-  
22 ations” in chapter 4 of title II of Public Law 109–234,  
23 \$36,000,000 is rescinded.

24 (RESCISSION)

25 SEC. 4130. From unobligated balances of prior year  
26 appropriations made available for “Domestic Nuclear De-

1 *tection Office—Research, Development, and Operations” in*  
2 *chapter 5 of title III of Public Law 110–28, \$3,800,000 is*  
3 *rescinded.*

4 *(RESCISSION)*

5 *SEC. 4131. From unobligated balances of prior year*  
6 *appropriations made available to “U.S. Customs and Bor-*  
7 *der Protection—Border Security Fencing, Infrastructure,*  
8 *and Technology”, \$200,000,000 is rescinded: Provided, That*  
9 *section 3002 shall not apply to the amount in this section.*

10 *SEC. 4132. Notwithstanding any other provision of*  
11 *law, including any agreement, the Federal share of assist-*  
12 *ance, including direct Federal assistance provided under*  
13 *sections 403, 406, and 407 of the Robert T. Stafford Dis-*  
14 *aster Relief and Emergency Assistance Act (42 U.S.C.*  
15 *5170b, 5172, and 5173), for damages resulting from*  
16 *FEMA–1909–DR, FEMA–1894–DR, and FEMA–3311–*  
17 *EM–RI shall not be less than 90 percent of the eligible costs*  
18 *under such sections.*

19 *(RESCISSION)*

20 *SEC. 4133. Of the funds made available for “Bureau*  
21 *of Land Management—Management of Lands and Re-*  
22 *sources” in title VII of division A of Public Law 111–5,*  
23 *\$6,400,000 is rescinded.*

1 (RESCISSION)

2 SEC. 4134. Of the funds made available for “Bureau  
3 of Land Management—Construction” in title VII of divi-  
4 sion A of Public Law 111–5, \$3,600,000 is rescinded.

5 (RESCISSION)

6 SEC. 4135. Of the funds made available for “National  
7 Park Service—Construction” in title VII of division A of  
8 Public Law 111–5, \$3,200,000 is rescinded.

9 (RESCISSION)

10 SEC. 4136. Of the funds made available for “United  
11 States Geological Survey—Surveys, Investigations, and Re-  
12 search” in title VII of division A of Public Law 111–5,  
13 \$5,000,000 is rescinded.

14 (RESCISSION)

15 SEC. 4137. Of the funds made available for “Bureau  
16 of Indian Affairs—Construction” in title VII of division  
17 A of Public Law 111–5, \$2,934,000 is rescinded.

18 (RESCISSION)

19 SEC. 4138. Of the funds made available for “Bureau  
20 of Indian Affairs—Indian Guaranteed Loan Program Ac-  
21 count” in title VII of division A of Public Law 111–5,  
22 \$6,820,000 is rescinded.

23 (RESCISSION)

24 SEC. 4139. Of the funds made available for “Environ-  
25 mental Protection Agency—Hazardous Substance Super-

1 *fund” in title VII of division A of Public Law 111–5,*  
2 *\$6,000,000 is rescinded.*

3 (RESCISSION)

4 SEC. 4140. *Of the funds made available for “Environ-*  
5 *mental Protection Agency—Leaking Underground Storage*  
6 *Tank Trust Fund Program” in title VII of division A of*  
7 *Public Law 111–5, \$9,200,000 is rescinded.*

8 (RESCISSION)

9 SEC. 4141. *Of the funds made available for transfer*  
10 *in title VII of division A of Public Law 111–5, “Environ-*  
11 *mental Protection Agency—Environmental Programs and*  
12 *Management”, \$13,000,000 is rescinded.*

13 (RESCISSION)

14 SEC. 4142. *Of the funds made available for “Depart-*  
15 *ment of Agriculture—Forest Service—Capital Improve-*  
16 *ment and Maintenance” in title VII of division A of Public*  
17 *Law 111–5, \$20,000,000 is rescinded.*

18 (RESCISSION)

19 SEC. 4143. *Of the funds transferred in section 703 of*  
20 *title VII of division A of Public Law 111–5, “Department*  
21 *of the Interior—Working Capital Fund”, \$4,400,000 is per-*  
22 *manently rescinded.*

23 (RESCISSION)

24 SEC. 4144. *Of the funds made available for “National*  
25 *Park Service—Construction” in chapter 5 of title II of Pub-*  
26 *lic Law 105–18, \$7,600,000 is rescinded.*

1 (RESCISSION)

2 *SEC. 4145. Of the funds made available for “National*  
3 *Park Service—Construction” in chapter 7 of division B of*  
4 *Public Law 108–324, \$5,104,000 is rescinded.*

5 (RESCISSION)

6 *SEC. 4146. Of the funds made available for “National*  
7 *Park Service—Construction” in chapter 5 of title II of Pub-*  
8 *lic Law 109–234, \$6,700,000 is rescinded.*

9 (RESCISSION)

10 *SEC. 4147. Of the funds made available for “Fish and*  
11 *Wildlife Service—Construction” in chapter 6 of title I of*  
12 *division B of Public Law 110–329, \$13,300,000 is re-*  
13 *scinded.*

14 *SEC. 4148. Section 11(c)(1) of the Outer Continental*  
15 *Shelf Lands Act (43 U.S.C. 1340(c)(1)) is amended in the*  
16 *fourth sentence by striking “within thirty days of its sub-*  
17 *mission,” and inserting the following: “within 90 days of*  
18 *its submission or within such additional time as the Sec-*  
19 *retary determines is necessary to complete any environ-*  
20 *mental, safety, or other reviews (in the case of leases issued*  
21 *pursuant to a sale held after March 17, 2010), or within*  
22 *90 days of its submission or, with the consent of the holder*  
23 *of the lease, within such additional time as the Secretary*  
24 *determines is necessary to complete any environmental,*  
25 *safety, or other reviews (in the case of leases issued pursuant*  
26 *to a sale held on or before March 17, 2010),”.*



1           *SEC. 4149. From funds appropriated in this Act under*  
2 *the heading “Department of Health and Human Services—*  
3 *Office of the Secretary—Public Health and Social Services*  
4 *Emergency Fund”, the Secretary of Health and Human*  
5 *Services shall make grants to States, in the amount needed*  
6 *to defray actual costs, for the purpose of assisting school*  
7 *districts serving significant numbers of children who en-*  
8 *tered the United States from Haiti during the period Janu-*  
9 *ary 12, 2010, through May 30, 2010, and who are United*  
10 *States citizens or Haitian nationals, to meet the edu-*  
11 *cational and related needs of such children.*

12                                 *(RESCISSION)*

13           *SEC. 4150. The unobligated balance of funds appro-*  
14 *priated in the Departments of Labor, Health and Human*  
15 *Services, and Education, and Related Agencies Appropria-*  
16 *tions Act, 1995 (Public Law 103–333; 108 Stat. 2574)*  
17 *under the heading “Public Health and Social Services*  
18 *Emergency Fund” is rescinded.*

19           *SEC. 4151. Amounts in section 1012 of division B of*  
20 *Public Law 111–118 shall be deemed to have been des-*  
21 *ignated by such section on the date of its enactment as an*  
22 *emergency requirement and necessary to meet emergency*  
23 *needs pursuant to sections 403 and 423(b) of S. Con. Res.*  
24 *13 (111th Congress), the concurrent resolution on the budget*  
25 *for fiscal year 2010.*

1        *SEC. 4152. (a) OIL SPILL UNEMPLOYMENT ASSIST-*  
2 *ANCE.—Upon a determination by the President that addi-*  
3 *tional resources are necessary to respond to an incident re-*  
4 *lated to a spill of national significance declared under the*  
5 *National Contingency Plan provided for under section 105*  
6 *of the Comprehensive Environmental Response, Compensa-*  
7 *tion, and Liability Act of 1980 (42 U.S.C. 9605) (“covered*  
8 *incident”), the Secretary of Labor is authorized to provide*  
9 *to any individual unemployed as a result of such covered*  
10 *incident such benefit assistance as the Secretary deems ap-*  
11 *propriate while such individual is unemployed for the weeks*  
12 *of such unemployment with respect to which the individual*  
13 *is not entitled to any other unemployment compensation*  
14 *(as that term is defined in section 85(b) of the Internal Rev-*  
15 *enue Code of 1986) or waiting period credit. Such assist-*  
16 *ance as the Secretary shall provide shall be available to an*  
17 *individual as long as the individual’s unemployment*  
18 *caused by such covered incident continues or until the indi-*  
19 *vidual is reemployed in a suitable position, but no longer*  
20 *than 26 weeks after the individual’s unemployment that re-*  
21 *sulted from the covered incident. Oil spill unemployment*  
22 *assistance payments for a week of unemployment shall not*  
23 *exceed the maximum weekly amount authorized under the*  
24 *unemployment compensation law of the individual’s State.*  
25 *The Secretary is directed to provide such assistance through*

1 *agreements with States that, in the Secretary's judgment,*  
2 *have an adequate system for administering such assistance*  
3 *through existing State agencies.*

4 (b) *FEDERAL-STATE AGREEMENTS.*—*Any State af-*  
5 *ected by a covered incident may enter into and participate*  
6 *in an agreement under this section with the Secretary. Any*  
7 *State which is a party to an agreement under this section*  
8 *may, upon providing 30 days' written notice to the Sec-*  
9 *retary, terminate such agreement.*

10 (c) *PROVISIONS OF AGREEMENT.*—*Any agreement*  
11 *under subsection (b) shall provide that the State agency of*  
12 *the State will—*

13 (1) *make payments of oil spill unemployment as-*  
14 *sistance to individuals who—*

15 (A) *are unemployed as a result of a covered*  
16 *incident;*

17 (B) *have no rights to regular compensation*  
18 *or extended compensation with respect to a week*  
19 *under State law or any other State unemploy-*  
20 *ment compensation law or to compensation*  
21 *under any other Federal law; and*

22 (C) *are not receiving compensation with re-*  
23 *spect to such week under the unemployment com-*  
24 *penetration law of Canada; and*

1           (2) *refer individuals receiving oil spill unem-*  
2           *ployment assistance under this section to one-stop de-*  
3           *livery systems established under section 134(c) of the*  
4           *Workforce Investment Act of 1998 for reemployment*  
5           *services or training provided under such Act, the*  
6           *Wagner-Peyser Act, or other Federal law.*

7           (d) *WEEKLY BENEFIT AMOUNT, DUE PROCESS*  
8           *RIGHTS.—For purposes of any agreement under this sec-*  
9           *tion, the terms and conditions of Federal law and regula-*  
10          *tions which apply to claims for disaster unemployment as-*  
11          *sistance and to the payment thereof shall apply to claims*  
12          *for oil spill unemployment assistance and the payment*  
13          *thereof, except where otherwise inconsistent with the provi-*  
14          *sions of this section or with the regulations or operating*  
15          *instructions of the Secretary promulgated to carry out this*  
16          *section.*

17          (e) *UNAUTHORIZED ALIENS INELIGIBLE.—A State*  
18          *shall require as a condition of oil spill unemployment as-*  
19          *sistance under this section that each alien who receives such*  
20          *assistance must be legally authorized to work in the United*  
21          *States, as defined for purposes of the Federal Unemploy-*  
22          *ment Tax Act (26 U.S.C. 3101 et seq.). In determining*  
23          *whether an alien meets the requirements of this subsection,*  
24          *a State must follow the procedures provided in section*  
25          *1137(d) of the Social Security Act (42 U.S.C. 1320b–7(d)).*

1       (f) *FRAUD AND OVERPAYMENTS.*—

2           (1) *IN GENERAL.*—*If an individual knowingly*  
3 *has made, or caused to be made by another, a false*  
4 *statement or representation of a material fact, or*  
5 *knowingly has failed, or caused another to fail, to dis-*  
6 *close a material fact, and as a result of such false*  
7 *statement or representation or of such nondisclosure*  
8 *such individual has received an amount of oil spill*  
9 *unemployment assistance under this section to which*  
10 *such individual was not entitled, such individual—*

11           (A) *shall be ineligible for further oil spill*  
12 *unemployment assistance under this section in*  
13 *accordance with the provisions of the applicable*  
14 *State unemployment compensation law relating*  
15 *to fraud in connection with a claim for unem-*  
16 *ployment compensation; and*

17           (B) *shall be subject to prosecution under*  
18 *section 1001 of title 18, United States Code.*

19           (2) *REPAYMENT.*—*In the case of an individual*  
20 *who has received oil spill unemployment assistance*  
21 *under this section to which such individual was not*  
22 *entitled, the State shall require such individual to*  
23 *repay the amount of such oil spill unemployment as-*  
24 *sistance to the State agency, except that the State*

1        *agency may waive such repayment if it determines*  
2        *that—*

3                *(A) the payment of such oil spill unemploy-*  
4                *ment assistance was without fault on the part of*  
5                *any such individual; and*

6                *(B) such repayment would be contrary to*  
7                *equity and good conscience.*

8                *(3) PREVENTION AND DETECTION BY STATE*  
9        *AGENCY.—The State agency shall submit a weekly*  
10        *payment file of all benefit payments to the National*  
11        *Directory of New Hires, and shall make arrangements*  
12        *for the cross match of the benefit payment recipients’*  
13        *social security numbers with the National Directory*  
14        *of New Hires Reported Hire and Benefit payment*  
15        *databases a minimum of once each week and inves-*  
16        *tigate all matches.*

17                *(4) RECOVERY BY STATE AGENCY.—*

18                *(A) IN GENERAL.—The State agency may*  
19                *recover the amount to be repaid, or any part*  
20                *thereof, by deductions from any oil spill unem-*  
21                *ployment assistance payable to such individual*  
22                *under this section or from any unemployment*  
23                *compensation payable to such individual under*  
24                *any State or Federal unemployment compensa-*  
25                *tion law administered by the State agency or*

1           *under any other State or Federal law adminis-*  
2           *tered by the State agency which provides for the*  
3           *payment of any assistance or allowance with re-*  
4           *spect to any week of unemployment, during the*  
5           *3-year period after the date such individual re-*  
6           *ceived the payment of the oil spill unemployment*  
7           *assistance to which such individual was not enti-*  
8           *tled, except that no single deduction may exceed*  
9           *50 percent of the weekly benefit amount from*  
10          *which such deduction is made.*

11           *(B) OPPORTUNITY FOR HEARING.—No re-*  
12          *payment shall be required, and no deduction*  
13          *shall be made, until a determination has been*  
14          *made, notice thereof and an opportunity for a*  
15          *fair hearing has been given to the individual,*  
16          *and the determination has become final.*

17           *(5) REVIEW.—Any determination by a State*  
18          *agency under this subsection shall be subject to review*  
19          *in the same manner and to the same extent as deter-*  
20          *minations under the State unemployment compensa-*  
21          *tion law, and only in that manner and to that extent.*

22          *(g) PAYMENTS TO STATES.—*

23           *(1) BENEFITS.—There shall be paid to each*  
24          *State that has entered into an agreement under this*  
25          *section an amount equal to 100 percent of the oil spill*

1        *unemployment assistance paid to individuals by the*  
2        *State under such agreement.*

3            (2) *ADMINISTRATION.—There shall be paid to*  
4        *each State that has entered into an agreement under*  
5        *this section such amounts as the Secretary determines*  
6        *necessary for the proper and efficient administration*  
7        *of such agreement.*

8        (h) *FINANCING.—*

9            (1) *IN GENERAL.—There are appropriated out of*  
10       *the general fund of the United States Treasury such*  
11       *funds as may be necessary in meeting the costs of ben-*  
12       *efits, Federal administration, and State administra-*  
13       *tion of agreements under this section.*

14           (2) *CERTIFICATION.—The Secretary shall from*  
15       *time to time certify to the Secretary of the Treasury*  
16       *for payment to each State the sums payable to such*  
17       *State under this section. Upon receipt of the certifi-*  
18       *cation from the Secretary, the Secretary of the Treas-*  
19       *ury shall make payments to the State in accordance*  
20       *with such certification, by transfers from the general*  
21       *fund of the United States Treasury.*

22        (i) *RELATIONSHIP WITH INCOME REPLACEMENT PAY-*  
23       *MENTS FOR LOST WAGES OR SELF EMPLOYMENT INCOME*  
24       *BY THE RESPONSIBLE PARTY.—*



1           (1) *The total combined amount an individual re-*  
2 *ceives of oil spill unemployment assistance and pay-*  
3 *ments by the responsible party for either lost wages*  
4 *or self-employment income shall not exceed the greater*  
5 *of—*

6                   (A) *the total amount of unemployment as-*  
7 *sistance that an individual is entitled to receive*  
8 *under subsection (a), as determined by the State*  
9 *agency; or*

10                   (B) *the liability of the responsible party to*  
11 *such individual for lost wages or self-employment*  
12 *income.*

13           (2) *If a responsible party or the Oil Spill Liabil-*  
14 *ity Trust Fund under the Oil Pollution Act of 1990*  
15 *(33 U.S.C. 2701 et seq.) makes a payment to the indi-*  
16 *vidual for lost wages related to unemployment result-*  
17 *ing from a covered incident, and an individual has*  
18 *previously received unemployment assistance under*  
19 *this section for such period of unemployment, the re-*  
20 *sponsible party or the Oil Spill Liability Trust Fund*  
21 *shall subtract from such payment the amount of such*  
22 *unemployment assistance and shall reimburse such*  
23 *subtracted amount to the United States for deposit in*  
24 *the general fund of the Treasury. If a responsible*  
25 *party fails to reimburse such subtracted amount pur-*

1        *suant to this paragraph, the Secretary of the Treas-*  
2        *ury shall request the Attorney General to bring a civil*  
3        *action against the responsible party or a guarantor*  
4        *in an appropriate district court to recover the*  
5        *amount of the demand, plus all costs incurred in ob-*  
6        *taining payment including prejudgment interest, at-*  
7        *torneys fees, and any other administrative and adju-*  
8        *dicative costs involved.*

9                *(3) If a responsible party or the Oil Spill Liabil-*  
10        *ity Trust Fund has made a payment to an individual*  
11        *for lost wages related to unemployment resulting from*  
12        *a covered incident, the amount of such payment shall*  
13        *be subtracted from the unemployment assistance*  
14        *under this section that the individual subsequently re-*  
15        *ceives for such period of unemployment.*

16                *(4) Any individual's receipt of unemployment*  
17        *assistance under this section related to unemployment*  
18        *resulting from a covered incident shall be conditional*  
19        *on the individual taking appropriate actions, as de-*  
20        *termined by the Secretary, to seek payment for lost*  
21        *wages for such period of unemployment under the Oil*  
22        *Pollution Act of 1990 (33 U.S.C. 2701 et seq.) from*  
23        *the responsible party or the Oil Spill Liability Trust*  
24        *Fund.*

1           (5) *Any individual, as a condition of receiving*  
2 *oil spill unemployment assistance, shall provide in-*  
3 *formed consent to the sharing of benefit information*  
4 *between the State agency and the responsible party*  
5 *(or its claim processor) or the Oil Spill Liability*  
6 *Trust Fund, as appropriate, for the purpose of deter-*  
7 *mining eligibility and to avoid duplicate payments*  
8 *as deemed necessary.*

9           (6) *If the Secretary determines the actions de-*  
10 *scribed in paragraphs (2) through (5) have not suc-*  
11 *ceeded in avoiding duplicate payments, the Secretary*  
12 *may take such other actions as the Secretary deter-*  
13 *mines necessary in order to avoid duplicate pay-*  
14 *ments, consistent with the responsible party or the Oil*  
15 *Spill Liability Trust Fund making payments to indi-*  
16 *viduals for lost wages related to unemployment result-*  
17 *ing from a covered incident.*

18           (7) *The Secretary may take such actions as the*  
19 *Secretary determines are necessary for implementing*  
20 *this section, including entering into agreements with*  
21 *States that have agreements with the Secretary to ad-*  
22 *minister this program, and the responsible party with*  
23 *respect to each State's administration of this program*  
24 *and payments made by the responsible party to*

1 *claimants for lost wages and self-employment income*  
2 *to establish processes for—*

3 *(A) the coordination of payment of oil spill*  
4 *unemployment assistance under this section and*  
5 *payments for lost wages and self employment in-*  
6 *come by the responsible party or the Oil Spill*  
7 *Liability Trust Fund so as to minimize dupli-*  
8 *cate payments to claimants, including methods*  
9 *to—*

10 *(i) prevent duplicate payments, such*  
11 *as developing methods for claims processing*  
12 *that identify eligibility for both types of*  
13 *payments so as to ensure the individual re-*  
14 *ceives no more than the amount specified in*  
15 *paragraph (1) of this subsection;*

16 *(ii) document that individuals who re-*  
17 *ceived either oil spill unemployment assist-*  
18 *ance or payments by the responsible party*  
19 *or the Oil Spill Liability Trust Fund prior*  
20 *to execution of the agreement were unem-*  
21 *ployed as a result of the oil spill; and*

22 *(iii) ensure prompt and accurate pay-*  
23 *ment of oil spill unemployment assistance*  
24 *under this section or payment of claims by*

1           *the responsible party or the Oil Spill Li-*  
2           *ability Trust Fund;*

3           *(B) sharing and protecting information re-*  
4           *garding an individual's claim for oil spill unem-*  
5           *ployment assistance or claims for replacement of*  
6           *wages that is necessary to coordinate benefit*  
7           *payments and claims by the responsible party or*  
8           *the Oil Spill Liability Trust Fund under sub-*  
9           *paragraph (A);*

10           *(C) reimbursement by the responsible party*  
11           *to the Federal Government and States for pay-*  
12           *ment of oil spill unemployment assistance to in-*  
13           *dividuals whose unemployment was the result of*  
14           *a covered incident and for the administration of*  
15           *this program, which may include the responsible*  
16           *party developing a special fund for use by the*  
17           *States to pay benefits under this program, in ac-*  
18           *cordance with the process developed under sub-*  
19           *paragraph (A) with a periodic reconciliation*  
20           *process to make future claims unnecessary;*

21           *(D) ensuring that the responsible party*  
22           *shall make benefit information available to gov-*  
23           *ernment organizations upon request, subject to*  
24           *the safeguards applicable to confidential unem-*  
25           *ployment compensation information in Federal*

1           *law and regulations, which shall apply to the*  
2           *Secretary, the State agencies administering the*  
3           *oil spill unemployment assistance program, the*  
4           *responsible party, and the Oil Spill Liability*  
5           *Trust Fund; and*

6                     *(E) developing similar agreements with the*  
7           *responsible party to coordinate payments of un-*  
8           *employment compensation under State law re-*  
9           *lated to a covered incident and payments made*  
10          *by the responsible party or the Oil Spill Liabil-*  
11          *ity Trust Fund.*

12                    *(8) The procedures developed under this section*  
13          *may be employed by States to coordinate payments of*  
14          *unemployment compensation under State law related*  
15          *to a covered incident and payments made by the re-*  
16          *sponsible party or the Oil Spill Liability Trust Fund.*

17                    *(j) LIABILITY OF RESPONSIBLE PARTIES.—Each re-*  
18          *sponsible party under the Oil Pollution Act of 1990 (33*  
19          *U.S.C. 2701 et seq.) is liable for any costs, net of any pay-*  
20          *ments by the responsible party to the United States under*  
21          *subsection (i), incurred by the United States under this sec-*  
22          *tion and shall, upon the demand of the Secretary of the*  
23          *Treasury, reimburse the general fund of the Treasury for*  
24          *these costs as well as the costs of the United States in ad-*  
25          *ministering its responsibilities under this section. If a re-*

1 *sponsible party fails to pay a demand of the Secretary of*  
2 *the Treasury pursuant to this subsection, the Secretary*  
3 *shall request the Attorney General to bring a civil action*  
4 *against the responsible party or a guarantor in an appro-*  
5 *priate district court to recover the amount of the demand,*  
6 *plus all costs incurred in obtaining payment including pre-*  
7 *judgment interest, attorneys fees, and any other adminis-*  
8 *trative and adjudicative costs involved. Such reimburse-*  
9 *ment shall be without regard to limits of liability under*  
10 *section 1004 of the Oil Pollution Act of 1990 (33 U.S.C.*  
11 *2704).*

12       *(k) EFFECTIVE DATE.—This section shall take effect*  
13 *immediately upon enactment of this Act and shall apply*  
14 *to all responsible parties under the Oil Pollution Act of*  
15 *1990 (33 U.S.C. 2701 et seq.), including any party deter-*  
16 *mined to be liable under such Act for any incident that*  
17 *occurred prior to the enactment of this section.*

18       *(l) DEFINITIONS.—For purposes of this section:*

19               *(1) DUPLICATE PAYMENTS.—The term “dupli-*  
20 *cate payments” includes any payment that would*  
21 *cause the individual to receive payments in excess of*  
22 *the amount determined under paragraph (1) of sub-*  
23 *section (i).*

24               *(2) RESPONSIBLE PARTY.—The term “respon-*  
25 *sible party” means one or more responsible parties.*

1           (3) *SECRETARY*.—The term “Secretary” means  
2           the Secretary of Labor.

3           (4) *STATE*.—The term “State” means any State,  
4           as such term is defined in section 3306(j)(1) of the  
5           *Federal Unemployment Tax Act* (26 U.S.C.  
6           3306(j)(1)).

7           (5) *STATE AGENCY*.—The term “State agency”  
8           means the State agency which administers the unem-  
9           ployment compensation law of the State approved by  
10          the Secretary of Labor under section 3304 of the *In-*  
11          *ternal Revenue Code of 1986*.

12          *SEC. 4153. (a) IN GENERAL*.—Section 173(a) of the  
13          *Workforce Investment Act of 1998* (29 U.S.C. 2918(a)) is  
14          amended—

15                 (1) in paragraph (3), by striking “and” at the  
16                 end;

17                 (2) in paragraph (4), by striking the period at  
18                 the end and inserting “; and”; and

19                 (3) by adding at the end the following new para-  
20                 graph:

21                         “(5) to provide assistance to the Governor of any  
22                         State within the boundaries of an area that is the  
23                         subject of a Presidential determination that addi-  
24                         tional resources are necessary to respond to an inci-  
25                         dent related to a spill of national significance de-



1        *clared under the National Contingency Plan provided*  
2        *for under section 105 of the Comprehensive Environ-*  
3        *mental Response, Compensation, and Liability Act of*  
4        *1980 (42 U.S.C. 9605) ('covered incident') to provide*  
5        *oil spill relief employment in the area."*

6        *(b) OIL SPILL RELIEF EMPLOYMENT ASSISTANCE RE-*  
7        *QUIREMENTS.—Section 173 of the Workforce Investment*  
8        *Act of 1998 (29 U.S.C. 2918) is amended by adding at the*  
9        *end the following new subsection:*

10        *“(h) OIL SPILL RELIEF EMPLOYMENT ASSISTANCE*  
11        *REQUIREMENTS.—*

12                *“(1) IN GENERAL.—Funds made available under*  
13        *subsection (a)(5)—*

14                        *“(A) shall be used to provide oil spill relief*  
15                        *employment on projects involving the cleaning,*  
16                        *restoration, renovation, repair and reconstruc-*  
17                        *tion of lands, marshes, waters, structures, and*  
18                        *facilities located within the area of the covered*  
19                        *incident, as well as offshore areas related to such*  
20                        *incident, and projects that provide food, clothing,*  
21                        *shelter, and other humanitarian assistance to in-*  
22                        *dividuals harmed by the covered incident;*

23                        *“(B) may be expended through public and*  
24                        *private agencies and organizations engaged in*  
25                        *such projects;*

1           “(C) may be expended to provide employ-  
2           ment and training activities;

3           “(D) may be expended to provide personal  
4           protective equipment to workers engaged in oil  
5           spill relief employment described in subpara-  
6           graph (A);

7           “(E) may be used to increase the capacity  
8           of States to make available the full range of serv-  
9           ices authorized under this title and provide in-  
10          formation (in languages appropriate to the indi-  
11          viduals served) about, and access to, the variety  
12          of public and private services available to indi-  
13          viduals adversely affected by the covered incident  
14          in One-Stop Career Centers and other access  
15          points (including other public facilities, mobile  
16          service delivery units, and social services offices);  
17          and

18          “(F) may be used to provide temporary em-  
19          ployment by public sector entities for a period  
20          not to exceed 6 months, in addition to the oil  
21          spill relief employment described in subpara-  
22          graph (A).

23          “(2) *ELIGIBILITY*.—An individual shall be eligi-  
24          ble for services under subsection (a)(5) if such indi-  
25          vidual is temporarily or permanently laid off as a

1       *consequence of the covered incident described in such*  
2       *subsection, is a dislocated worker, is a long-term un-*  
3       *employed individual, or meets such other criteria as*  
4       *the Secretary may establish.*

5               “(3) *LIMITATIONS ON OIL SPILL RELIEF EMPLOY-*  
6       *MENT ASSISTANCE.—No individual shall be employed*  
7       *under subsection (a)(5) for more than 6 months for*  
8       *oil spill relief employment related to recovery from a*  
9       *single covered incident. The Secretary may, upon re-*  
10       *viewing a State’s request, extend such employment re-*  
11       *lated to recovery from a single covered incident for up*  
12       *to an additional 6 months.*

13               “(4) *REIMBURSEMENT.—Each responsible party*  
14       *under the Oil Pollution Act of 1990 (33 U.S.C. 2701*  
15       *et seq.) is liable for any costs incurred by the United*  
16       *States under this subsection or subsection (a)(5) and*  
17       *shall, upon the demand of the Secretary of the Treas-*  
18       *ury, reimburse the general fund of the Treasury for*  
19       *the costs incurred under this subsection or subsection*  
20       *(a)(5) as well as the costs of the United States in ad-*  
21       *ministering its responsibilities under this subsection*  
22       *or subsection (a)(5). If a responsible party fails to*  
23       *pay a demand of the Secretary of the Treasury pursu-*  
24       *ant to this subsection or subsection (a)(5), the Sec-*  
25       *retary shall request the Attorney General to bring a*

1 *civil action against the responsible party or a guar-*  
2 *antor in an appropriate district court to recover the*  
3 *amount of the demand, plus all costs incurred in ob-*  
4 *taining payment including prejudgment interest, at-*  
5 *torney's fees, and any other administrative and adju-*  
6 *dicative costs involved. Such reimbursement shall be*  
7 *without regard to limits of liability under section*  
8 *1004 of the Oil Pollution Act of 1990 (33 U.S.C.*  
9 *2704).*

10 *“(5) USE OF AVAILABLE FUNDS.—Funds appro-*  
11 *priated for fiscal years 2009 and 2010 and remaining*  
12 *available for obligation by the Secretary to provide*  
13 *any assistance authorized under this section shall be*  
14 *available to assist workers affected by a covered inci-*  
15 *dent, including workers who have relocated from areas*  
16 *in which a covered incident has been declared. Under*  
17 *such conditions as the Secretary may approve, any*  
18 *State may use funds that remain available for ex-*  
19 *penditure under any grants awarded to the State*  
20 *under this section to provide any assistance author-*  
21 *ized under this subsection. Funds used pursuant to*  
22 *the authority provided under this paragraph shall be*  
23 *subject to the reimbursement requirements described*  
24 *in paragraph (4).*

1           “(6) *REQUIREMENTS FOR GRANT APPLICA-*  
2           *TIONS.—An application submitted to the Secretary*  
3           *under this subsection shall include a detailed descrip-*  
4           *tion of—*

5                   “(A) *how the State will ensure the capacity*  
6                   *of One-Stop Career Centers and other access*  
7                   *points to—*

8                           “(i) *provide affected individuals with*  
9                           *information, in languages appropriate to*  
10                           *the individuals served, about the range of*  
11                           *available services; and*

12                           “(ii) *provide affected individuals with*  
13                           *access to the range of needed services;*

14                   “(B) *how the State will prioritize individ-*  
15                   *uals who are temporarily or permanently laid*  
16                   *off as a consequence of the covered incident in*  
17                   *the assignment of temporary employment posi-*  
18                   *tions; and*

19                   “(C) *any other supporting information the*  
20                   *Secretary may require.”.*

21           (c) *EFFECTIVE DATE.—This section, and the amend-*  
22           *ments made by this section, shall take effect immediately*  
23           *upon enactment of this Act and shall apply to all respon-*  
24           *sible parties under the Oil Pollution Act of 1990 (33 U.S.C.*  
25           *2701 et seq.), including any party determined to be liable*

1 *under such Act for any incident that occurred prior to the*  
2 *enactment of this Act.*

3 (d) *APPROPRIATION.—There is appropriated*  
4 *\$50,000,000 for an additional amount for “Department of*  
5 *Labor—Employment and Training Administration—*  
6 *Training and Employment Services”, to carry out section*  
7 *173(a)(5) and (h) of the Workforce Investment Act of 1998*  
8 *(29 U.S.C. 2918(a)(5) and (h)) (“WIA”) as amended by this*  
9 *Act, to remain available through June 30, 2011: Provided,*  
10 *That funding shall be available upon enactment of this Act,*  
11 *notwithstanding section 189(g)(l) of WIA.*

12 *SEC. 4154. (a) The Secretary of Labor may reserve not*  
13 *more than 1 percent of the funds available to carry out sec-*  
14 *tion 4152 of this Act and section 173(h) of the Workforce*  
15 *Investment Act of 1998 (as added by section 4153 of this*  
16 *Act) for transfer to appropriate Department of Labor ac-*  
17 *counts for program administration and support activities*  
18 *in the Department of Labor associated with such sections,*  
19 *and for the increased worker protection and workplace ben-*  
20 *efit activities and oversight and coordination activities in*  
21 *connection with the application of laws and regulations as-*  
22 *sociated with the Department’s response to spills of national*  
23 *significance declared under the National Contingency Plan*  
24 *provided for under section 105 of the Comprehensive Envi-*

1 *ronmental Response, Compensation, and Liability Act of*  
2 *1980 (42 U.S.C. 9605).*

3 *(b) A responsible party under the Oil Pollution Act*  
4 *of 1990 (33 U.S.C. 2701 et seq.) shall, upon the demand*  
5 *of the Secretary of the Treasury, reimburse the general fund*  
6 *of the Treasury for all or a portion of the additional*  
7 *amount appropriated herein, as determined by the Sec-*  
8 *retary of the Treasury.*

9 *(c) If a responsible party fails to pay a demand of*  
10 *the Secretary of the Treasury pursuant to this section, the*  
11 *Secretary shall request the Attorney General to bring a civil*  
12 *action against the responsible party or a guarantor in an*  
13 *appropriate district court to recover the amount of the de-*  
14 *mand, plus all costs incurred in obtaining payment includ-*  
15 *ing prejudgment interest, attorneys fees, and any other ad-*  
16 *ministrative and adjudicative costs involved. Such reim-*  
17 *bursement shall be without regard to limits of liability*  
18 *under section 1004 of the Oil Pollution Act of 1990 (33*  
19 *U.S.C. 2704).*

20 *(d) This section shall take effect immediately upon en-*  
21 *actment of this Act and shall apply to all responsible par-*  
22 *ties under the Oil Pollution Act of 1990, including any*  
23 *party determined to be liable under such Act for any inci-*  
24 *dent that occurred prior to the enactment of this Act.*

1       (e) *The Secretary of Labor shall provide to the Com-*  
 2 *mittees on Appropriations of the House of Representatives*  
 3 *and the Senate a report describing the use of the funds not*  
 4 *later than 1 year after the date of enactment of this Act.*

5                                   (RESCISSION)

6       *SEC. 4155. Of the unobligated balance of funds appro-*  
 7 *propriated without fiscal year limitation under the heading*  
 8 *“Department of Health and Human Services—Office of the*  
 9 *Secretary—Public Health and Social Services Emergency*  
 10 *Fund” in fiscal years 2006 through 2010 to prepare for and*  
 11 *respond to an influenza pandemic (including any amount*  
 12 *not yet designated by the President as emergency funds)*  
 13 *and the unobligated balance of funds transferred to “Public*  
 14 *Health and Social Services Emergency Fund” pursuant to*  
 15 *the fourth paragraph under such heading in Public Law*  
 16 *111–117, \$2,000,000,000 is rescinded: Provided, That the*  
 17 *Secretary of Health and Human Services, in consultation*  
 18 *with the Director of the Office of Management and Budget,*  
 19 *shall determine the amount to be rescinded from each ap-*  
 20 *propriation and shall transmit a written notice of such de-*  
 21 *termination to the Committees on Appropriations of the*  
 22 *House of Representatives and the Senate not later than 30*  
 23 *days after enactment of this Act: Provided further, That sec-*  
 24 *tion 3002 shall not apply to \$500,000,000 of the amount*  
 25 *in this section.*



1 (RESCISSION)

2 *SEC. 4156. Of the funds appropriated for “Department*  
3 *of Education—Innovation and Improvement” in division*  
4 *D of Public Law 111–117 (123 Stat. 3263), \$100,000,000*  
5 *is rescinded, to be derived only from the amount available*  
6 *for grants authorized under subpart I of part B of title V*  
7 *of the Elementary and Secondary Education Act of 1965:*  
8 *Provided, That section 3002 shall not apply to the amount*  
9 *in this section.*

10 (RESCISSION)

11 *SEC. 4157. Of the funds appropriated for “Department*  
12 *of Education—Innovation and Improvement” in division*  
13 *A of Public Law 111–5 (123 Stat. 182) and division D*  
14 *of Public Law 111–117 (123 Stat. 3263), \$200,000,000 is*  
15 *rescinded, to be derived only from amounts available for*  
16 *the Teacher Incentive Fund: Provided, That section 3002*  
17 *shall not apply to \$100,000,000 of the amount in this sec-*  
18 *tion.*

19 (RESCISSION)

20 *SEC. 4158. Of the funds appropriated for “Department*  
21 *of Education—State Fiscal Stabilization Fund” in title*  
22 *XIV of division A of the American Recovery and Reinvest-*  
23 *ment Act of 2009 (Public Law 111–5; 123 Stat. 279),*  
24 *\$500,000,000 is rescinded, to be derived only from the*  
25 *amount made available for grants under section 14006 of*  
26 *such title and through a corresponding reduction in the*

1 *total amount reserved under section 14001(c) of such title*  
2 *for grants under such section 14006.*

3       *SEC. 4159. Amounts appropriated to the Architect of*  
4 *the Capitol in the Legislative Branch Appropriations Act,*  
5 *2006 (Public Law 109–55) under the heading “Architect*  
6 *of the Capitol—Capitol Police Building and Grounds” and*  
7 *that remain available until September 30, 2010, and*  
8 *amounts appropriated to the Architect of the Capitol in the*  
9 *Legislative Branch Appropriations Act, 2010 (Public Law*  
10 *111–68) under the heading “Architect of the Capitol—Cap-*  
11 *itol Police Buildings, Grounds and Security” and that re-*  
12 *main available until September 30, 2014, shall be available*  
13 *to the Architect of the Capitol for the purchase of real prop-*  
14 *erty (including any buildings or facilities) for the use of*  
15 *the Capitol Police.*

16       *SEC. 4160. (a) TERMINATION OF OEPPPO.—Section*  
17 *905 of the Emergency Supplemental Act, 2002 (2 U.S.C.*  
18 *130i) is repealed.*

19       *(b) TRANSFER TO SERGEANT AT ARMS.—The func-*  
20 *tions and responsibilities of the Office of Emergency Plan-*  
21 *ning, Preparedness, and Operations under section 905 of*  
22 *the Emergency Supplemental Act, 2002 (2 U.S.C. 130i) (as*  
23 *in effect on the day before the date referred to in subsection*  
24 *(c)) shall be transferred and assigned to the Sergeant at*  
25 *Arms of the House of Representatives.*

1           (c) *EFFECTIVE DATE.*—*This section and the amend-*  
 2 *ment made by this section shall take effect February 1,*  
 3 *2010.*

4    *(RESCISSION)*

5           *SEC. 4161. Of the unobligated balances available to the*  
 6 *Architect of the Capitol from prior year appropriations for*  
 7 *the Capitol Visitor Center project, \$5,000,000 is rescinded:*  
 8 *Provided, That section 3002 shall not apply to the amount*  
 9 *in this section.*

10   *(RESCISSION)*

11           *SEC. 4162. Of the unobligated balances available under*  
 12 *“Department of Defense, Military Construction, Army”*  
 13 *from prior appropriations Acts, \$340,000,000 is rescinded:*  
 14 *Provided, That no funds may be rescinded from amounts*  
 15 *that were designated by the Congress as an emergency re-*  
 16 *quirement or as appropriations for overseas deployments*  
 17 *and other activities pursuant to a concurrent resolution on*  
 18 *the budget or the Balanced Budget and Emergency Deficit*  
 19 *Control Act of 1985: Provided further, That section 3002*  
 20 *shall not apply to the amount in this section.*

21    *(RESCISSION)*

22           *SEC. 4163. Of the unobligated balances available under*  
 23 *“Department of Defense, Military Construction, Navy and*  
 24 *Marine Corps” from prior appropriations Acts,*  
 25 *\$110,000,000 is rescinded: Provided, That no funds may*  
 26 *be rescinded from amounts that were designated by the Con-*

1 *gress as an emergency requirement or as appropriations for*  
2 *overseas deployments and other activities pursuant to a*  
3 *concurrent resolution on the budget or the Balanced Budget*  
4 *and Emergency Deficit Control Act of 1985: Provided fur-*  
5 *ther, That section 3002 shall not apply to the amount in*  
6 *this section.*

7 *(RESCISSION)*

8 *SEC. 4164. Of the unobligated balances available under*  
9 *“Department of Defense, Military Construction, Air Force”*  
10 *from prior appropriations Acts, \$50,000,000 is rescinded:*  
11 *Provided, That no funds may be rescinded from amounts*  
12 *that were designated by the Congress as an emergency re-*  
13 *quirement or as appropriations for overseas deployments*  
14 *and other activities pursuant to a concurrent resolution on*  
15 *the budget or the Balanced Budget and Emergency Deficit*  
16 *Control Act of 1985: Provided further, That section 3002*  
17 *shall not apply to the amount in this section.*

18 *(RESCISSION)*

19 *SEC. 4165. Of the funds made available for the General*  
20 *Operating Expenses account of the Department of Veterans*  
21 *Affairs in section 2201(e)(4)(A)(ii) of division B of Public*  
22 *Law 111–5 (123 Stat. 454; 26 U.S.C. 6428 note),*  
23 *\$6,100,000 is rescinded.*

24 *SEC. 4166. None of the funds appropriated or other-*  
25 *wise made available by this Act may be obligated by any*  
26 *covered executive agency in contravention of the certifi-*

1 *cation requirement of section 6(b) of the Iran Sanctions Act*  
2 *of 1996, as included in the revisions to the Federal Acquisi-*  
3 *tion Regulation pursuant to such section.*

4 (RESCISSIONS)

5 SEC. 4167. (a) MILLENNIUM CHALLENGE CORPORA-  
6 TION.—*Of the unobligated balances available under the*  
7 *heading “Millennium Challenge Corporation” in title III*  
8 *of division H of Public Law 111–8 and under such heading*  
9 *in prior Acts making appropriations for the Department*  
10 *of State, foreign operations, and related programs,*  
11 *\$150,000,000 is rescinded.*

12 (b) CIVILIAN STABILIZATION INITIATIVE.—

13 (1) DEPARTMENT OF STATE.—*Of the unobligated*  
14 *balances available under the heading “Department of*  
15 *State—Administration of Foreign Affairs—Civilian*  
16 *Stabilization Initiative” in prior Acts making appro-*  
17 *priations for the Department of State, foreign oper-*  
18 *ations, and related programs, \$40,000,000 is re-*  
19 *scinded.*

20 (2) UNITED STATES AGENCY FOR INTERNATIONAL  
21 DEVELOPMENT.—*Of the unobligated balances avail-*  
22 *able under the heading “United States Agency for*  
23 *International Development—Funds Appropriated to*  
24 *the President—Civilian Stabilization Initiative” in*  
25 *prior Acts making appropriations for the Department*

1       *of State, foreign operations, and related programs,*  
 2       *\$30,000,000 is rescinded.*

3       *(c) Section 3002 shall not apply to the amounts in*  
 4 *this section.*

5   *(RESCISSION)*

6       *SEC. 4168. Of the unobligated balances available under*  
 7 *the heading “Capital Investment Fund” in title XI of divi-*  
 8 *sion A of Public Law 111-5, \$40,000,000 is rescinded.*

9   *(RESCISSION)*

10       *SEC. 4169. Of the unobligated balances of funds made*  
 11 *available under section 108(b) of Public Law 101–100, as*  
 12 *added by Public Law 101–130, to the Emergency Fund au-*  
 13 *thorized by section 125 of title 23, United States Code,*  
 14 *\$10,893,687 is rescinded: Provided, That section 3002 shall*  
 15 *not apply to the amount in this section.*

16   *(RESCISSIONS)*

17       *SEC. 4170. There are rescinded the following amounts*  
 18 *from the specified accounts:*

19                (1) *“Department of Transportation—Federal*  
 20 *Aviation Administration—Facilities and Equip-*  
 21 *ment”, \$2,182,544, to be derived from unobligated*  
 22 *balances made available under this heading in Public*  
 23 *Law 108–324.*

24                (2) *“Department of Transportation—Federal*  
 25 *Aviation Administration—Facilities and Equip-*  
 26 *ment”, \$5,705,750, to be derived from unobligated*

1 *balances made available under this heading in Public*  
2 *Law 109–148.*

3 (3) *“Department of Housing and Urban Devel-*  
4 *opment—Community Planning and Development—*  
5 *Community Development Fund”, \$111,602,923, to be*  
6 *derived from unobligated balances made available*  
7 *under this heading in chapter 10 of title I of division*  
8 *B of Public Law 110–329.*

9 *SEC. 4171. The item relating to “Federal Housing Ad-*  
10 *ministration—General and Special Risk Program Ac-*  
11 *count” in title II of division A of the Consolidated Appro-*  
12 *priations Act, 2010 (Public Law 111–117; 123 Stat. 3091)*  
13 *is amended by striking “\$15,000,000,000” and inserting*  
14 *“\$20,000,000,000”: Provided, That section 3002 shall not*  
15 *apply to the amount in this section.*

16 *SEC. 4172. Section 1117(d) of the Transportation Eq-*  
17 *uity Act for the 21st Century (112 Stat. 161) is repealed*  
18 *and the designation made by that section shall no longer*  
19 *be effective.*

20 (RESCISSION)

21 *SEC. 4173. Of the unobligated balances of contract au-*  
22 *thority apportioned to each State for the programs listed*  
23 *in section 105(a)(2) of title 23, United States Code (except*  
24 *the equity bonus program under section 105 of such title*  
25 *and the high priority projects program under section 117*  
26 *of such title), \$2,200,000,000 is permanently rescinded:*

1 *Provided, That such rescission shall be distributed within*  
2 *each State among all programs for which funds were appor-*  
3 *tioned for fiscal year 2009 and to which the rescission ap-*  
4 *plies, to the extent sufficient funds remain available for ob-*  
5 *ligation, in the ratio that the amount of funds apportioned*  
6 *for each such program for such fiscal year, bears to the*  
7 *amount of funds apportioned for all such programs for such*  
8 *fiscal year: Provided further, That funds set aside under*  
9 *sections 133(d)(2) and 133(d)(3) of title 23, United States*  
10 *Code, shall be treated as being apportioned for the purposes*  
11 *of this section: Provided further, That section 1132 of Public*  
12 *Law 110–140 shall not apply to the rescission under this*  
13 *section: Provided further, That section 3002 shall not apply*  
14 *to the amount in this section.*

15 *(RESCISSION)*

16 *SEC. 4174. Of the unobligated balances of funds under*  
17 *the heading “Department of Housing and Urban Develop-*  
18 *ment—Community Planning and Development—Commu-*  
19 *nity Development Fund” made available by section 159 of*  
20 *Public Law 110–92, as added by division B of Public Law*  
21 *110–116, \$400,000,000 is rescinded.*



1    *CHAPTER 2*  
2     *PRESERVE ACCESS TO AFFORDABLE GENERICS*  
3    *ACT*  
4    *SHORT TITLE*

5             *SEC. 4201. This chapter may be cited as the “Preserve*  
6 *Access to Affordable Generics Act”.*

7    *UNLAWFUL COMPENSATION FOR DELAY*

8             *SEC. 4202. (a) IN GENERAL.—The Federal Trade*  
9 *Commission Act (15 U.S.C. 44 et seq.) is amended—*  
10                    *(1) by redesignating section 28 as section 29;*  
11             *and*  
12                    *(2) by inserting before section 29, as redesign-*  
13 *ated, the following:*

14 ***“SEC. 28. PRESERVING ACCESS TO AFFORDABLE GENERICS.***

15             *“(a) IN GENERAL.—*

16                    *“(1) ENFORCEMENT PROCEEDING.—The Federal*  
17 *Trade Commission may initiate a proceeding to en-*  
18 *force the provisions of this section against the parties*  
19 *to any agreement resolving or settling, on a final or*  
20 *interim basis, a patent infringement claim, in con-*  
21 *nection with the sale of a drug product.*

22                    *“(2) PRESUMPTION.—*

23                    *“(A) IN GENERAL.—Subject to subpara-*  
24 *graph (B), in such a proceeding, an agreement*  
25 *shall be presumed to have anticompetitive effects*  
26 *and be unlawful if—*

1           “(i) an ANDA filer receives anything  
2           of value; and

3           “(ii) the ANDA filer agrees to limit or  
4           forego research, development, manufac-  
5           turing, marketing, or sales of the ANDA  
6           product for any period of time.

7           “(B) *EXCEPTION.*—The presumption in  
8           subparagraph (A) shall not apply if the parties  
9           to such agreement demonstrate by clear and con-  
10          vincing evidence that the procompetitive benefits  
11          of the agreement outweigh the anticompetitive ef-  
12          fects of the agreement.

13          “(b) *COMPETITIVE FACTORS.*—In determining whether  
14          the settling parties have met their burden under subsection  
15          (a)(2)(B), the fact finder shall consider—

16                 “(1) the length of time remaining until the end  
17                 of the life of the relevant patent, compared with the  
18                 agreed upon entry date for the ANDA product;

19                 “(2) the value to consumers of the competition  
20                 from the ANDA product allowed under the agreement;

21                 “(3) the form and amount of consideration re-  
22                 ceived by the ANDA filer in the agreement resolving  
23                 or settling the patent infringement claim;

24                 “(4) the revenue the ANDA filer would have re-  
25                 ceived by winning the patent litigation;

1           “(5) the reduction in the NDA holder’s revenues  
2           if it had lost the patent litigation;

3           “(6) the time period between the date of the  
4           agreement conveying value to the ANDA filer and the  
5           date of the settlement of the patent infringement  
6           claim; and

7           “(7) any other factor that the fact finder, in its  
8           discretion, deems relevant to its determination of  
9           competitive effects under this subsection.

10          “(c) *LIMITATIONS.*—In determining whether the set-  
11          tling parties have met their burden under subsection  
12          (a)(2)(B), the fact finder shall not presume—

13                 “(1) that entry would not have occurred until the  
14                 expiration of the relevant patent or statutory exclu-  
15                 sivity; or

16                 “(2) that the agreement’s provision for entry of  
17                 the ANDA product prior to the expiration of the rel-  
18                 evant patent or statutory exclusivity means that the  
19                 agreement is pro-competitive, although such evidence  
20                 may be relevant to the fact finder’s determination  
21                 under this section.

22          “(d) *EXCLUSIONS.*—Nothing in this section shall pro-  
23          hibit a resolution or settlement of a patent infringement  
24          claim in which the consideration granted by the NDA hold-

1 *er to the ANDA filer as part of the resolution or settlement*  
2 *includes only one or more of the following:*

3           “(1) *The right to market the ANDA product in*  
4 *the United States prior to the expiration of—*

5                   “(A) *any patent that is the basis for the*  
6 *patent infringement claim; or*

7                   “(B) *any patent right or other statutory ex-*  
8 *clusivity that would prevent the marketing of*  
9 *such drug.*

10           “(2) *A payment for reasonable litigation ex-*  
11 *penses not to exceed \$7,500,000.*

12           “(3) *A covenant not to sue on any claim that the*  
13 *ANDA product infringes a United States patent.*

14           “(e) *REGULATIONS AND ENFORCEMENT.—*

15                   “(1) *REGULATIONS.—The Federal Trade Com-*  
16 *mission may issue, in accordance with section 553 of*  
17 *title 5, United States Code, regulations implementing*  
18 *and interpreting this section. These regulations may*  
19 *exempt certain types of agreements described in sub-*  
20 *section (a) if the Commission determines such agree-*  
21 *ments will further market competition and benefit*  
22 *consumers. Judicial review of any such regulation*  
23 *shall be in the United States District Court for the*  
24 *District of Columbia pursuant to section 706 of title*  
25 *5, United States Code.*

1           “(2) *ENFORCEMENT.*—A violation of this section  
2           shall be treated as a violation of section 5.

3           “(3) *JUDICIAL REVIEW.*—Any person, partner-  
4           ship or corporation that is subject to a final order of  
5           the Commission, issued in an administrative adju-  
6           dicative proceeding under the authority of subsection  
7           (a)(1), may, within 30 days of the issuance of such  
8           order, petition for review of such order in the United  
9           States Court of Appeals for the District of Columbia  
10          Circuit or the United States Court of Appeals for the  
11          circuit in which the ultimate parent entity, as defined  
12          at 16 C.F.R. 801.1(a)(3), of the NDA holder is incor-  
13          porated as of the date that the NDA is filed with the  
14          Secretary of the Food and Drug Administration, or  
15          the United States Court of Appeals for the circuit in  
16          which the ultimate parent entity of the ANDA filer is  
17          incorporated as of the date that the ANDA is filed  
18          with the Secretary of the Food and Drug Administra-  
19          tion. In such a review proceeding, the findings of the  
20          Commission as to the facts, if supported by evidence,  
21          shall be conclusive.

22          “(f) *ANTITRUST LAWS.*—Nothing in this section shall  
23          be construed to modify, impair, or supersede the applica-  
24          bility of the antitrust laws as defined in subsection (a) of  
25          the first section of the Clayton Act (15 U.S.C. 12(a)) and

1 *of section 5 of this Act to the extent that section 5 applies*  
2 *to unfair methods of competition. Nothing in this section*  
3 *shall modify, impair, limit or supersede the right of an*  
4 *ANDA filer to assert claims or counterclaims against any*  
5 *person, under the antitrust laws or other laws relating to*  
6 *unfair competition.*

7 “(g) *PENALTIES.*—

8 “(1) *FORFEITURE.*—*Each person, partnership or*  
9 *corporation that violates or assists in the violation of*  
10 *this section shall forfeit and pay to the United States*  
11 *a civil penalty sufficient to deter violations of this*  
12 *section, but in no event greater than 3 times the value*  
13 *received by the party that is reasonably attributable*  
14 *to a violation of this section. If no such value has*  
15 *been received by the NDA holder, the penalty to the*  
16 *NDA holder shall be shall be sufficient to deter viola-*  
17 *tions, but in no event greater than 3 times the value*  
18 *given to the ANDA filer reasonably attributable to the*  
19 *violation of this section. Such penalty shall accrue to*  
20 *the United States and may be recovered in a civil ac-*  
21 *tion brought by the Federal Trade Commission, in its*  
22 *own name by any of its attorneys designated by it for*  
23 *such purpose, in a district court of the United States*  
24 *against any person, partnership or corporation that*  
25 *violates this section. In such actions, the United*

1       *States district courts are empowered to grant manda-*  
2       *tory injunctions and such other and further equitable*  
3       *relief as they deem appropriate.*

4               “(2) *CEASE AND DESIST.*—

5                       “(A) *IN GENERAL.*—*If the Commission has*  
6                       *issued a cease and desist order with respect to a*  
7                       *person, partnership or corporation in an admin-*  
8                       *istrative adjudicative proceeding under the au-*  
9                       *thority of subsection (a)(1), an action brought*  
10                      *pursuant to paragraph (1) may be commenced*  
11                      *against such person, partnership or corporation*  
12                      *at any time before the expiration of 1 year after*  
13                      *such order becomes final pursuant to section*  
14                      *5(g).*

15                      “(B) *EXCEPTION.*—*In an action under sub-*  
16                      *paragraph (A), the findings of the Commission*  
17                      *as to the material facts in the administrative ad-*  
18                      *judicative proceeding with respect to such per-*  
19                      *son’s, partnership’s or corporation’s violation of*  
20                      *this section shall be conclusive unless—*

21                               “(i) *the terms of such cease and desist*  
22                               *order expressly provide that the Commis-*  
23                               *sion’s findings shall not be conclusive; or*

24                               “(ii) *the order became final by reason*  
25                               *of section 5(g)(1), in which case such find-*

1            *ing shall be conclusive if supported by evi-*  
2            *dence.*

3            “(3) *CIVIL PENALTY.*—*In determining the*  
4            *amount of the civil penalty described in this section,*  
5            *the court shall take into account—*

6            “(A) *the nature, circumstances, extent, and*  
7            *gravity of the violation;*

8            “(B) *with respect to the violator, the degree*  
9            *of culpability, any history of violations, the abil-*  
10           *ity to pay, any effect on the ability to continue*  
11           *doing business, profits earned by the NDA hold-*  
12           *er, compensation received by the ANDA filer,*  
13           *and the amount of commerce affected; and*

14           “(C) *other matters that justice requires.*

15           “(4) *REMEDIES IN ADDITION.*—*Remedies pro-*  
16           *vided in this subsection are in addition to, and not*  
17           *in lieu of, any other remedy provided by Federal law.*  
18           *Nothing in this paragraph shall be construed to affect*  
19           *any authority of the Commission under any other*  
20           *provision of law.*

21           “(h) *DEFINITIONS.*—*In this section:*

22           “(1) *AGREEMENT.*—*The term ‘agreement’ means*  
23           *anything that would constitute an agreement under*  
24           *section 1 of the Sherman Act (15 U.S.C. 1) or section*  
25           *5 of this Act.*



1           “(2) *AGREEMENT RESOLVING OR SETTling A*  
2           *PATENT INFRINGEMENT CLAIM.*—*The term ‘agreement*  
3           *resolving or settling a patent infringement claim’ in-*  
4           *cludes any agreement that is entered into within 30*  
5           *days of the resolution or the settlement of the claim,*  
6           *or any other agreement that is contingent upon, pro-*  
7           *vides a contingent condition for, or is otherwise re-*  
8           *lated to the resolution or settlement of the claim.*

9           “(3) *ANDA.*—*The term ‘ANDA’ means an abbrev-*  
10           *viated new drug application, as defined under section*  
11           *505(j) of the Federal Food, Drug, and Cosmetic Act*  
12           *(21 U.S.C. 355(j)).*

13           “(4) *ANDA FILER.*—*The term ‘ANDA filer’*  
14           *means a party who has filed an ANDA with the Food*  
15           *and Drug Administration.*

16           “(5) *ANDA PRODUCT.*—*The term ‘ANDA prod-*  
17           *uct’ means the product to be manufactured under the*  
18           *ANDA that is the subject of the patent infringement*  
19           *claim.*

20           “(6) *DRUG PRODUCT.*—*The term ‘drug product’*  
21           *means a finished dosage form (e.g., tablet, capsule, or*  
22           *solution) that contains a drug substance, generally,*  
23           *but not necessarily, in association with 1 or more*  
24           *other ingredients, as defined in section 314.3(b) of*  
25           *title 21, Code of Federal Regulations.*

1           “(7) *NDA*.—*The term ‘NDA’ means a new drug*  
2           *application, as defined under section 505(b) of the*  
3           *Federal Food, Drug, and Cosmetic Act (21 U.S.C.*  
4           *355(b)).*

5           “(8) *NDA HOLDER*.—*The term ‘NDA holder’*  
6           *means—*

7                   “(A) *the party that received FDA approval*  
8                   *to market a drug product pursuant to an NDA;*

9                   “(B) *a party owning or controlling enforce-*  
10                   *ment of the patent listed in the Approved Drug*  
11                   *Products With Therapeutic Equivalence Evalua-*  
12                   *tions (commonly known as the ‘FDA Orange*  
13                   *Book’) in connection with the NDA; or*

14                   “(C) *the predecessors, subsidiaries, divi-*  
15                   *sions, groups, and affiliates controlled by, con-*  
16                   *trolling, or under common control with any of*  
17                   *the entities described in subparagraphs (A) and*  
18                   *(B) (such control to be presumed by direct or in-*  
19                   *direct share ownership of 50 percent or greater),*  
20                   *as well as the licensees, licensors, successors, and*  
21                   *assigns of each of the entities.*

22           “(9) *PATENT INFRINGEMENT*.—*The term ‘patent*  
23           *infringement’ means infringement of any patent or of*  
24           *any filed patent application, extension, reissue, re-*  
25           *newal, division, continuation, continuation in part,*

1 *reexamination, patent term restoration, patents of ad-*  
2 *dition and extensions thereof.*

3 “(10) *PATENT INFRINGEMENT CLAIM.*—*The term*  
4 *‘patent infringement claim’ means any allegation*  
5 *made to an ANDA filer, whether or not included in*  
6 *a complaint filed with a court of law, that its ANDA*  
7 *or ANDA product may infringe any patent held by,*  
8 *or exclusively licensed to, the NDA holder of the drug*  
9 *product.*

10 “(11) *STATUTORY EXCLUSIVITY.*—*The term ‘stat-*  
11 *utory exclusivity’ means those prohibitions on the ap-*  
12 *proval of drug applications under clauses (ii) through*  
13 *(iv) of section 505(c)(3)(E) (5- and 3-year data exclu-*  
14 *sivity), section 527 (orphan drug exclusivity), or sec-*  
15 *tion 505A (pediatric exclusivity) of the Federal Food,*  
16 *Drug, and Cosmetic Act.”.*

17 (b) *EFFECTIVE DATE.*—*Section 28 of the Federal*  
18 *Trade Commission Act, as added by this section, shall*  
19 *apply to all agreements described in section 28(a)(1) of that*  
20 *Act entered into after November 15, 2009. Section 28(g) of*  
21 *the Federal Trade Commission Act, as added by this sec-*  
22 *tion, shall not apply to agreements entered into before the*  
23 *date of enactment of this chapter.*

24 *NOTICE AND CERTIFICATION OF AGREEMENTS*

25 *SEC. 4203. (a) NOTICE OF ALL AGREEMENTS.*—*Sec-*  
26 *tion 1112(c)(2) of the Medicare Prescription Drug, Im-*

1 *provement, and Modernization Act of 2003 (21 U.S.C. 355*  
2 *note) is amended—*

3 *(1) by striking “the Commission the” and insert-*  
4 *ing the following: “the Commission—*

5 *“(1) the”;*

6 *(2) by striking the period and inserting “; and”;*  
7 *and*

8 *(3) by inserting at the end the following:*

9 *“(2) any other agreement the parties enter into*  
10 *within 30 days of entering into an agreement covered*  
11 *by subsection (a) or (b).”.*

12 *(b) CERTIFICATION OF AGREEMENTS.—Section 1112*  
13 *of such Act is amended by adding at the end the following:*

14 *“(d) CERTIFICATION.—The Chief Executive Officer or*  
15 *the company official responsible for negotiating any agree-*  
16 *ment required to be filed under subsection (a), (b), or (c)*  
17 *shall execute and file with the Assistant Attorney General*  
18 *and the Commission a certification as follows: ‘I declare*  
19 *that the following is true, correct, and complete to the best*  
20 *of my knowledge: The materials filed with the Federal*  
21 *Trade Commission and the Department of Justice under*  
22 *section 1112 of subtitle B of title XI of the Medicare Pre-*  
23 *scription Drug, Improvement, and Modernization Act of*  
24 *2003, with respect to the agreement referenced in this cer-*  
25 *tification: (1) represent the complete, final, and exclusive*

1 *agreement between the parties; (2) include any ancillary*  
2 *agreements that are contingent upon, provide a contingent*  
3 *condition for, or are otherwise related to, the referenced*  
4 *agreement; and (3) include written descriptions of any oral*  
5 *agreements, representations, commitments, or promises be-*  
6 *tween the parties that are responsive to subsection (a) or*  
7 *(b) of such section 1112 and have not been reduced to writ-*  
8 *ing.’’.*

9 *FORFEITURE OF 180-DAY EXCLUSIVITY PERIOD*

10 *SEC. 4204. Section 505(j)(5)(D)(i)(V) of the Federal*  
11 *Food, Drug and Cosmetic Act (21 U.S.C.*  
12 *355(j)(5)(D)(i)(V)) is amended by inserting “section 28 of*  
13 *the Federal Trade Commission Act or” after “that the*  
14 *agreement has violated”.*

15 *COMMISSION LITIGATION AUTHORITY*

16 *SEC. 4205. Section 16(a)(2) of the Federal Trade Com-*  
17 *mission Act (15 U.S.C. 56(a)(2)) is amended—*

18 *(1) in subparagraph (D), by striking “or” after*  
19 *the semicolon;*

20 *(2) in subparagraph (E), by inserting “or” after*  
21 *the semicolon; and*

22 *(3) by inserting after subparagraph (E) the fol-*  
23 *lowing:*

24 *“(F) under section 28;”.*

1                                    *STATUTE OF LIMITATIONS*

2            *SEC. 4206. The Commission shall commence any en-*  
3 *forcement proceeding described in section 28 of the Federal*  
4 *Trade Commission Act, as added by section 3202, except*  
5 *for an action described in section 28(g)(2) of the Federal*  
6 *Trade Commission Act, not later than 3 years after the date*  
7 *on which the parties to the agreement file the Notice of*  
8 *Agreement as provided by section 1112(c) of the Medicare*  
9 *Prescription Drug Improvement and Modernization Act of*  
10 *2003 (21 U.S.C. 355 note).*

11                                    *SEVERABILITY*

12            *SEC. 4207. If any provision of this chapter, an amend-*  
13 *ment made by this chapter, or the application of such provi-*  
14 *sion or amendment to any person or circumstance is held*  
15 *to be unconstitutional, the remainder of this chapter, the*  
16 *amendments made by this chapter, and the application of*  
17 *the provisions of such chapter or amendments to any person*  
18 *or circumstance shall not be affected thereby.*

19                                    *CHAPTER 3*20                                    *COMPUTATION OF MEDICAID AVERAGE*21                                    *MANUFACTURER PRICE*22                                    *COMPUTATION OF MEDICAID AVERAGE MANUFACTURER*23                                    *PRICE (AMP) FOR DRUGS NOT DISPENSED THROUGH*24                                    *RETAIL COMMUNITY PHARMACIES*

25            *SEC. 4301. (a) IN GENERAL.—Section*  
26 *1927(k)(1)(B)(i)(IV) of the Social Security Act (42 U.S.C.*

1 1396r–8(k)(1)(B)(i)(IV)), as amended by section  
2 2503(a)(2)(B) of the Patient Protection and Affordable Care  
3 Act (Public Law 111–148) and by section 1102(c)(2) of the  
4 Health Care and Education Reconciliation Act of 2010  
5 (Public Law 111–152), is amended by inserting after “re-  
6 tail community pharmacy” the following: “, except that in  
7 the case of an inhalation, infusion, or injectable drug that  
8 is not dispensed through a retail community pharmacy, the  
9 exclusion under this subclause shall not apply to payments  
10 received from, and rebates and discounts provided to, dis-  
11 tributors or hospitals, clinics, doctors, and other entities di-  
12 rectly dispensing the drug; and”.

13 (b) *EFFECTIVE DATE.*—The amendment made by sub-  
14 section (a) shall take effect as if included in section 2503  
15 of Public Law 111–148.

#### 16 CHAPTER 4

#### 17 PUBLIC SAFETY EMPLOYER-EMPLOYEE

#### 18 COOPERATION ACT

#### 19 SHORT TITLE

20 *SEC. 4401.* This chapter may be cited as the “Public  
21 Safety Employer-Employee Cooperation Act of 2010”.

#### 22 DECLARATION OF PURPOSE AND POLICY

23 *SEC. 4402.* The Congress declares that the following is  
24 the policy of the United States:

25 (1) Labor-management relationships and part-  
26 nerships are based on trust, mutual respect, open

1       *communication, bilateral consensual problem solving,*  
2       *and shared accountability. Labor-management co-*  
3       *operation fully utilizes the strengths of both parties to*  
4       *best serve the interests of the public, operating as a*  
5       *team, to carry out the public safety mission in a*  
6       *quality work environment. In many public safety*  
7       *agencies, it is the union that provides the institu-*  
8       *tional stability as elected leaders and appointees come*  
9       *and go.*

10           (2) *State and local public safety officers play an*  
11       *essential role in the efforts of the United States to de-*  
12       *tect, prevent, and respond to terrorist attacks, and to*  
13       *respond to natural disasters, hazardous materials,*  
14       *and other mass casualty incidents. State and local*  
15       *public safety officers, as first responders, are a compo-*  
16       *nent of our Nation's National Incident Management*  
17       *System, developed by the Department of Homeland*  
18       *Security to coordinate response to and recovery from*  
19       *terrorism, major natural disasters, and other major*  
20       *emergencies. Public safety employer-employee coopera-*  
21       *tion is essential in meeting these needs and is, there-*  
22       *fore, in the National interest.*

23           (3) *The Federal Government needs to encourage*  
24       *conciliation, mediation, and voluntary arbitration to*  
25       *aid and encourage employers and the representatives*



1       *of their employees to reach and maintain agreements*  
2       *concerning rates of pay, hours, and working condi-*  
3       *tions, and to make all reasonable efforts through nego-*  
4       *tiations to settle their differences by mutual agree-*  
5       *ment reached through collective bargaining or by such*  
6       *methods as may be provided for in any applicable*  
7       *agreement for the settlement of disputes.*

8               *(4) The absence of adequate cooperation between*  
9       *public safety employers and employees has implica-*  
10       *tions for the security of employees and can affect*  
11       *interstate and intrastate commerce. The lack of such*  
12       *labor-management cooperation can detrimentally im-*  
13       *part the upgrading of police and fire services of local*  
14       *communities, the health and well-being of public safe-*  
15       *ty officers, and the morale of the fire and police de-*  
16       *partments. Additionally, these factors could have sig-*  
17       *nificant commercial repercussions. Moreover, pro-*  
18       *viding minimal standards for collective bargaining*  
19       *negotiations in the public safety sector can prevent*  
20       *industrial strife between labor and management that*  
21       *interferes with the normal flow of commerce.*

22               *(5) Many States and localities already provide*  
23       *public safety officers with collective bargaining rights*  
24       *comparable to or greater than the rights and respon-*

1 *sibilities set forth in this chapter, and such State and*  
2 *local laws should be respected.*

3 *DEFINITIONS*

4 *SEC. 4403. In this chapter:*

5 (1) *AUTHORITY.*—*The term “Authority” means*  
6 *the Federal Labor Relations Authority.*

7 (2) *CONFIDENTIAL EMPLOYEE.*—*The term “con-*  
8 *fidential employee” has the meaning given such term*  
9 *under applicable State law on the date of enactment*  
10 *of this Act. If no such State law is in effect, the term*  
11 *means an individual, employed by a public safety*  
12 *employer, who—*

13 (A) *is designated as confidential; and*

14 (B) *is an individual who routinely assists,*  
15 *in a confidential capacity, supervisory employees*  
16 *and management employees.*

17 (3) *EMERGENCY MEDICAL SERVICES PER-*  
18 *SONNEL.*—*The term “emergency medical services per-*  
19 *sonnel” means an individual who provides out-of-hos-*  
20 *pital emergency medical care, including an emer-*  
21 *gency medical technician, paramedic, or first re-*  
22 *sponder.*

23 (4) *EMPLOYER; PUBLIC SAFETY AGENCY.*—*The*  
24 *terms “employer” and “public safety agency” mean*  
25 *any State, or political subdivision of a State, that*  
26 *employs public safety officers.*

1           (5) *FIREFIGHTER*.—The term “firefighter” has  
2           the meaning given the term “employee engaged in fire  
3           protection activities” in section 3(y) of the Fair  
4           Labor Standards Act of 1938 (29 U.S.C. 203(y)).

5           (6) *LABOR ORGANIZATION*.—The term “labor or-  
6           ganization” means an organization composed in  
7           whole or in part of employees, in which employees  
8           participate, and which represents such employees be-  
9           fore public safety agencies concerning grievances, con-  
10          ditions of employment, and related matters.

11          (7) *LAW ENFORCEMENT OFFICER*.—The term  
12          “law enforcement officer” has the meaning given such  
13          term in section 1204 of the Omnibus Crime Control  
14          and Safe Streets Act of 1968 (42 U.S.C. 3796b).

15          (8) *MANAGEMENT EMPLOYEE*.—The term “man-  
16          agement employee” has the meaning given such term  
17          under applicable State law in effect on the date of en-  
18          actment of this Act. If no such State law is in effect,  
19          the term means an individual employed by a public  
20          safety employer in a position that requires or author-  
21          izes the individual to formulate, determine, or influ-  
22          ence the policies of the employer.

23          (9) *PERSON*.—The term “person” means an in-  
24          dividual or a labor organization.

1           (10) *PUBLIC SAFETY OFFICER.*—The term “pub-  
2       lic safety officer”—

3           (A) means an employee of a public safety  
4       agency who is a law enforcement officer, a fire-  
5       fighter, or an emergency medical services per-  
6       sonnel;

7           (B) includes an individual who is tempo-  
8       rarily transferred to a supervisory or manage-  
9       ment position; and

10          (C) does not include a permanent super-  
11       visory, management, or confidential employee.

12          (11) *STATE.*—The term “State” means each of  
13       the several States of the United States, the District of  
14       Columbia, and any territory or possession of the  
15       United States.

16          (12) *SUBSTANTIALLY PROVIDES.*—The term  
17       “substantially provides”, when used with respect to  
18       the rights and responsibilities described in section  
19       3404(b), means compliance with each right and re-  
20       sponsibility described in such section.

21          (13) *SUPERVISORY EMPLOYEE.*—The term “su-  
22       pervisory employee” has the meaning given such term  
23       under applicable State law in effect on the date of en-  
24       actment of this Act. If no such State law is in effect,

1 *the term means an individual, employed by a public*  
2 *safety employer, who—*

3 *(A) has the authority in the interest of the*  
4 *employer to hire, direct, assign, promote, reward,*  
5 *transfer, furlough, lay off, recall, suspend, dis-*  
6 *cipline, or remove public safety officers, to adjust*  
7 *their grievances, or to effectively recommend such*  
8 *action, if the exercise of the authority is not*  
9 *merely routine or clerical in nature but requires*  
10 *the consistent exercise of independent judgment;*  
11 *and*

12 *(B) devotes a majority of time at work to*  
13 *exercising such authority.*

14 *DETERMINATION OF RIGHTS AND RESPONSIBILITIES*

15 *SEC. 4404. (a) DETERMINATION.—*

16 *(1) IN GENERAL.—Not later than 180 days after*  
17 *the date of enactment of this Act, the Authority shall*  
18 *make a determination as to whether a State substan-*  
19 *tially provides for the rights and responsibilities de-*  
20 *scribed in subsection (b).*

21 *(2) CONSIDERATION OF ADDITIONAL OPINIONS.—*

22 *In making the determination described in paragraph*  
23 *(1), the Authority shall consider the opinions of af-*  
24 *ected employers and labor organizations. In the case*  
25 *where the Authority is notified by an affected em-*  
26 *ployer and labor organization that both parties agree*

1        *that the law applicable to such employer and labor*  
2        *organization substantially provides for the rights and*  
3        *responsibilities described in subsection (b), the Au-*  
4        *thority shall give such agreement weight to the max-*  
5        *imum extent practicable in making the Authority's*  
6        *determination under this subsection.*

7            (3) *LIMITED CRITERIA.—In making the deter-*  
8        *mination described in paragraph (1), the Authority*  
9        *shall be limited to the application of the criteria de-*  
10       *scribed in subsection (b) and shall not require any*  
11       *additional criteria.*

12            (4) *SUBSEQUENT DETERMINATIONS.—*

13            (A) *IN GENERAL.—A determination made*  
14        *pursuant to paragraph (1) shall remain in effect*  
15        *unless and until the Authority issues a subse-*  
16        *quent determination, in accordance with the pro-*  
17        *cedures set forth in subparagraph (B).*

18            (B) *PROCEDURES FOR SUBSEQUENT DETER-*  
19        *MINATIONS.—Upon establishing that a material*  
20        *change in State law or its interpretation has oc-*  
21        *curred, an employer or a labor organization may*  
22        *submit a written request for a subsequent deter-*  
23        *mination. If satisfied that a material change in*  
24        *State law or its interpretation has occurred, the*  
25        *Authority shall issue a subsequent determination*

1           *not later than 30 days after receipt of such re-*  
2           *quest.*

3           (5) *JUDICIAL REVIEW.*—*Any person or employer*  
4           *aggrieved by a determination of the Authority under*  
5           *this section may, during the 60-day period beginning*  
6           *on the date on which the determination was made, pe-*  
7           *tition any United States Court of Appeals in the cir-*  
8           *cuit in which the person or employer resides or trans-*  
9           *acts business or in the District of Columbia circuit,*  
10          *for judicial review. In any judicial review of a deter-*  
11          *mination by the Authority, the procedures contained*  
12          *in subsections (c) and (d) of section 7123 of title 5,*  
13          *United States Code, shall be followed.*

14          (b) *RIGHTS AND RESPONSIBILITIES.*—*In making a de-*  
15          *termination described in subsection (a), the Authority shall*  
16          *consider a State’s law to substantially provide the required*  
17          *rights and responsibilities unless such law fails to provide*  
18          *rights and responsibilities comparable to or greater than*  
19          *the following:*

20                 (1) *Granting public safety officers the right to*  
21                 *form and join a labor organization, which may ex-*  
22                 *clude management employees, supervisory employees,*  
23                 *and confidential employees, that is, or seeks to be, rec-*  
24                 *ognized as the exclusive bargaining representative of*  
25                 *such employees.*

1           (2) *Requiring public safety employers to recog-*  
2           *nize the employees' labor organization (freely chosen*  
3           *by a majority of the employees), to agree to bargain*  
4           *with the labor organization, and to commit any*  
5           *agreements to writing in a contract or memorandum*  
6           *of understanding.*

7           (3) *Providing for the right to bargain over hours,*  
8           *wages, and terms and conditions of employment.*

9           (4) *Making available an interest impasse resolu-*  
10          *tion mechanism, such as fact-finding, mediation, ar-*  
11          *bitration, or comparable procedures.*

12          (5) *Requiring enforcement of all rights, respon-*  
13          *sibilities, and protections provided by State law and*  
14          *enumerated in this section, and of any written con-*  
15          *tract or memorandum of understanding between a*  
16          *labor organization and a public safety employer,*  
17          *through—*

18                 (A) *a State administrative agency, if the*  
19                 *State so chooses; and*

20                 (B) *at the election of an aggrieved party,*  
21                 *the State courts.*

22          (c) *COMPLIANCE WITH REQUIREMENTS.—If the Au-*  
23          *thority determines, acting pursuant to its authority under*  
24          *subsection (a), that a State substantially provides rights*



1 *and responsibilities described in subsection (b), then this*  
2 *chapter shall not preempt State law.*

3 *(d) FAILURE TO MEET REQUIREMENTS.—*

4 *(1) IN GENERAL.—If the Authority determines,*  
5 *acting pursuant to its authority under subsection (a),*  
6 *that a State does not substantially provide for the*  
7 *rights and responsibilities described in subsection (b),*  
8 *then such State shall be subject to the regulations and*  
9 *procedures described in section 3405 beginning on the*  
10 *later of—*

11 *(A) the date that is 2 years after the date*  
12 *of enactment of this Act;*

13 *(B) the date that is the last day of the first*  
14 *regular session of the legislature of the State that*  
15 *begins after the date of the enactment of this Act;*

16 *or*

17 *(C) in the case of a State receiving a subse-*  
18 *quent determination under subsection (a)(4), the*  
19 *date that is the last day of the first regular ses-*  
20 *sion of the legislature of the State that begins*  
21 *after the date the Authority made the determina-*  
22 *tion.*

23 *(2) PARTIAL FAILURE.—If the Authority makes*  
24 *a determination that a State does not substantially*  
25 *provide for the rights and responsibilities described in*

1        *subsection (b) solely because the State law substan-*  
2        *tially provides for such rights and responsibilities for*  
3        *certain categories of public safety officers covered by*  
4        *this chapter but not others, the Authority shall iden-*  
5        *tify those categories of public safety officers that shall*  
6        *be subject to the regulations and procedures described*  
7        *in section 4405, pursuant to section 4408(b)(3) and*  
8        *beginning on the appropriate date described in para-*  
9        *graph (1), and those categories of public safety officers*  
10       *that shall remain subject to State law.*

11       *ROLE OF FEDERAL LABOR RELATIONS AUTHORITY*

12       *SEC. 4405. (a) IN GENERAL.—Not later than 1 year*  
13       *after the date of enactment of this Act, the Authority shall*  
14       *issue regulations in accordance with the rights and respon-*  
15       *sibilities described in section 4404(b) establishing collective*  
16       *bargaining procedures for employers and public safety offi-*  
17       *cers in States which the Authority has determined, acting*  
18       *pursuant to section 4404(a), do not substantially provide*  
19       *for such rights and responsibilities.*

20       *(b) ROLE OF THE FEDERAL LABOR RELATIONS AU-*  
21       *THORITY.—The Authority, to the extent provided in this*  
22       *chapter and in accordance with regulations prescribed by*  
23       *the Authority, shall—*

24                *(1) determine the appropriateness of units for*  
25        *labor organization representation;*

1           (2) *supervise or conduct elections to determine*  
2 *whether a labor organization has been selected as an*  
3 *exclusive representative by a voting majority of the*  
4 *employees in an appropriate unit;*

5           (3) *resolve issues relating to the duty to bargain*  
6 *in good faith;*

7           (4) *conduct hearings and resolve complaints of*  
8 *unfair labor practices;*

9           (5) *resolve exceptions to the awards of arbitra-*  
10 *tors;*

11           (6) *protect the right of each employee to form,*  
12 *join, or assist any labor organization, or to refrain*  
13 *from any such activity, freely and without fear of*  
14 *penalty or reprisal, and protect each employee in the*  
15 *exercise of such right; and*

16           (7) *take such other actions as are necessary and*  
17 *appropriate to effectively administer this chapter, in-*  
18 *cluding issuing subpoenas requiring the attendance*  
19 *and testimony of witnesses and the production of doc-*  
20 *umentary or other evidence from any place in the*  
21 *United States, and administering oaths, taking or or-*  
22 *dering the taking of depositions, ordering responses to*  
23 *written interrogatories, and receiving and examining*  
24 *witnesses.*

25           (c) *ENFORCEMENT.*—

1           (1) *AUTHORITY TO PETITION COURT.*—*The Au-*  
2 *thority may petition any United States Court of Ap-*  
3 *peals with jurisdiction over the parties, or the United*  
4 *States Court of Appeals for the District of Columbia*  
5 *Circuit, to enforce any final orders under this section,*  
6 *and for appropriate temporary relief or a restraining*  
7 *order. Any petition under this section shall be con-*  
8 *ducted in accordance with subsections (c) and (d) of*  
9 *section 7123 of title 5, United States Code.*

10           (2) *PRIVATE RIGHT OF ACTION.*—*Unless the Au-*  
11 *thority has filed a petition for enforcement as pro-*  
12 *vided in paragraph (1), any party has the right to*  
13 *file suit in any appropriate district court of the*  
14 *United States to enforce compliance with the regula-*  
15 *tions issued by the Authority pursuant to subsection*  
16 *(b), and to enforce compliance with any order issued*  
17 *by the Authority pursuant to this section. The right*  
18 *provided by this subsection to bring a suit to enforce*  
19 *compliance with any order issued by the Authority*  
20 *pursuant to this section shall terminate upon the fil-*  
21 *ing of a petition seeking the same relief by the Au-*  
22 *thority.*

23           *STRIKES AND LOCKOUTS PROHIBITED*

24           *SEC. 4406. (a) IN GENERAL.*—*Subject to subsection*  
25 *(b), an employer, public safety officer, or labor organization*  
26 *may not engage in a lockout, sickout, work slowdown,*

1 *strike, or any other organized job action that will measur-*  
2 *ably disrupt the delivery of emergency services and is de-*  
3 *signed to compel an employer, public safety officer, or labor*  
4 *organization to agree to the terms of a proposed contract.*

5 (b) *NO PREEMPTION.*—*Nothing in this section shall be*  
6 *construed to preempt any law of any State or political sub-*  
7 *division of any State with respect to strikes by public safety*  
8 *officers.*

9 *EXISTING COLLECTIVE BARGAINING UNITS AND*

10 *AGREEMENTS*

11 *SEC. 4407. A certification, recognition, election-held,*  
12 *collective bargaining agreement or memorandum of under-*  
13 *standing which has been issued, approved, or ratified by*  
14 *any public employee relations board or commission or by*  
15 *any State or political subdivision or its agents (manage-*  
16 *ment officials) and is in effect on the day before the date*  
17 *of enactment of this Act shall not be invalidated by the en-*  
18 *actment of this Act.*

19 *CONSTRUCTION AND COMPLIANCE*

20 *SEC. 4408. (a) CONSTRUCTION.*—*Nothing in this chap-*  
21 *ter shall be construed—*

22 (1) *to preempt or limit the remedies, rights, and*  
23 *procedures of any law of any State or political sub-*  
24 *division of any State that provides greater or com-*  
25 *parable rights and responsibilities than the rights and*  
26 *responsibilities described in section 4404(b);*

1           (2) to prevent a State from enforcing a right-to-  
2           work law that prohibits employers and labor organi-  
3           zations from negotiating provisions in a labor agree-  
4           ment that require union membership or payment of  
5           union fees as a condition of employment;

6           (3) to preempt or limit any State law in effect  
7           on the date of enactment of this Act that provides for  
8           the rights and responsibilities described in section  
9           4404(b) solely because such State law permits an em-  
10          ployee to appear on the employee's own behalf with  
11          respect to the employee's employment relations with  
12          the public safety agency involved;

13          (4) to preempt or limit any State law in effect  
14          on the date of enactment of this Act that provides for  
15          the rights and responsibilities described in section  
16          4404(b) solely because such State law excludes from  
17          its coverage employees of a State militia or national  
18          guard;

19          (5) to permit parties in States subject to the reg-  
20          ulations and procedures described in section 4405 to  
21          negotiate provisions that would prohibit an employee  
22          from engaging in part-time employment or volunteer  
23          activities during off-duty hours;

24          (6) to prohibit a State from exempting from cov-  
25          erage under this chapter a political subdivision of the

1       *State that has a population of less than 5,000 or that*  
2       *employs less than 25 full-time employees; or*

3               *(7) to preempt or limit the laws or ordinances*  
4       *of any State or political subdivision of a State that*  
5       *provide for the rights and responsibilities described in*  
6       *section 4404(b) solely because such law or ordinance*  
7       *does not require bargaining with respect to pension,*  
8       *retirement, or health benefits.*

9       *For purposes of paragraph (6), the term “employee” in-*  
10       *cludes each and every individual employed by the political*  
11       *subdivision except any individual elected by popular vote*  
12       *or appointed to serve on a board or commission.*

13       *(b) COMPLIANCE.—*

14               *(1) ACTIONS OF STATES.—Nothing in this chap-*  
15       *ter or the regulations promulgated under this chapter*  
16       *shall be construed to require a State to rescind or pre-*  
17       *empt the laws or ordinances of any of the State’s po-*  
18       *litical subdivisions if such laws provide rights and re-*  
19       *sponsibilities for public safety officers that are com-*  
20       *parable to or greater than the rights and responsibil-*  
21       *ities described in section 4404(b).*

22               *(2) ACTIONS OF THE AUTHORITY.—Nothing in*  
23       *this chapter or the regulations promulgated under*  
24       *this chapter shall be construed to preempt—*

1           (A) *the laws or ordinances of any State or*  
2 *political subdivision of a State, if such laws pro-*  
3 *vide collective bargaining rights for public safety*  
4 *officers that are comparable to or greater than*  
5 *the rights enumerated in section 4404(b);*

6           (B) *the laws or ordinances of any State or*  
7 *political subdivision of a State that provide for*  
8 *the rights and responsibilities described in sec-*  
9 *tion 4404(b) with respect to certain categories of*  
10 *public safety officers covered by this Act solely*  
11 *because such rights and responsibilities have not*  
12 *been extended to other categories of public safety*  
13 *officers covered by this chapter; or*

14           (C) *the laws or ordinances of any State or*  
15 *political subdivision of a State that provide for*  
16 *the rights and responsibilities described in sec-*  
17 *tion 4404(b), solely because such laws or ordi-*  
18 *nances provide that a contract or memorandum*  
19 *of understanding between a public safety em-*  
20 *ployer and a labor organization must be pre-*  
21 *sented to a legislative body as part of the process*  
22 *for approving such contract or memorandum of*  
23 *understanding.*

24           (3) *LIMITED ENFORCEMENT POWER.—In the case*  
25 *of a law described in paragraph (2)(B), the Authority*



1 *shall only exercise the powers provided in section*  
 2 *4405 with respect to those categories of public safety*  
 3 *officers who have not been afforded the rights and re-*  
 4 *sponsibilities described in section 4404(b).*

5 *(4) EXCLUSIVE ENFORCEMENT PROVISION.—Not-*  
 6 *withstanding any other provision of the chapter, and*  
 7 *in the absence of a waiver of a State’s sovereign im-*  
 8 *munity, the Authority shall have the exclusive power*  
 9 *to enforce the provisions of this chapter with respect*  
 10 *to employees of a State.*

11 *AUTHORIZATION OF APPROPRIATIONS*

12 *SEC. 4409. There are authorized to be appropriated*  
 13 *such sums as may be necessary to carry out the provisions*  
 14 *of this chapter.*

15 *CHAPTER 5*

16 *PROGRAM INTEGRITY INITIATIVES*

17 *DEPARTMENT OF THE TREASURY*

18 *INTERNAL REVENUE SERVICE*

19 *ENFORCEMENT*

20 *For an additional amount for “Enforcement”,*  
 21 *\$245,000,000, to remain available through September 30,*  
 22 *2011, for additional and enhanced tax enforcement activi-*  
 23 *ties: Provided, That section 3002 shall not apply to the*  
 24 *amount under this heading.*

1                                    *DEPARTMENT OF LABOR*  
2                                    *EMPLOYMENT AND TRAINING ADMINISTRATION*  
3                                    *STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT*  
4                                    *SERVICE OPERATIONS*

5            *For an additional amount for “State Unemployment*  
6 *Insurance and Employment Service Operations”,*  
7 *\$5,000,000, to be expended from the Employment Security*  
8 *Administration Account of the Unemployment Trust Fund*  
9 *and remain available through September 30, 2011, to con-*  
10 *duct in-person reemployment and eligibility assessments*  
11 *and unemployment insurance improper payment reviews:*  
12 *Provided, That section 3002 shall not apply to the amount*  
13 *under this heading.*

14                                    *DEPARTMENT OF HEALTH AND HUMAN*  
15                                    *SERVICES*  
16                                    *HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT*

17            *For an additional amount for “Health Care Fraud*  
18 *and Abuse Control Account”, \$250,000,000, to remain*  
19 *available through September 30, 2012, to be transferred*  
20 *from the Federal Hospital Insurance Trust Fund and the*  
21 *Federal Supplementary Medical Insurance Trust Fund, as*  
22 *authorized by section 201(g) of the Social Security Act, of*  
23 *which \$124,747,000 shall be for Centers for Medicare and*  
24 *Medicaid Services Program Integrity Activities, including*  
25 *administrative costs, to conduct oversight activities for*

1 *Medicare Advantage and the Medicare Prescription Drug*  
2 *Program authorized in title XVIII of the Social Security*  
3 *Act, for activities listed in section 1893 of such Act, and*  
4 *for Medicaid and Children’s Health Insurance Program*  
5 *program integrity activities; of which \$65,040,000 shall be*  
6 *for the Department of Health and Human Services Office*  
7 *of Inspector General to carry out fraud and abuse activities*  
8 *authorized by section 1817(k)(3) of such Act; and of which*  
9 *\$60,213,000 shall be for the Department of Justice to carry*  
10 *out fraud and abuse activities authorized by section*  
11 *1817(k)(3) of such Act: Provided, That section 3002 shall*  
12 *not apply to the amounts under this heading.*

13 *RELATED AGENCIES*

14 *SOCIAL SECURITY ADMINISTRATION*

15 *LIMITATION ON ADMINISTRATIVE EXPENSES*

16 *For an additional amount for “Limitation on Admin-*  
17 *istrative Expenses”, \$38,000,000, to remain available*  
18 *through September 30, 2011, for the cost associated with*  
19 *conducting continuing disability reviews under titles II and*  
20 *XVI of the Social Security Act and for the cost associated*  
21 *with conducting redeterminations of eligibility under title*  
22 *XVI of the Social Security Act: Provided, That section 3002*  
23 *shall not apply to the amount under this heading.*

## CHAPTER 6

## GENERAL PROVISIONS—THIS TITLE

1  
2  
3       *SEC. 4601. (a) None of the funds made available in*  
4 *this Act may be used to maintain or establish a computer*  
5 *network unless such network blocks the viewing,*  
6 *downloading, and exchanging of pornography.*

7       *(b) Nothing in subsection (a) shall limit the use of*  
8 *funds necessary for any Federal, State, tribal, or local law*  
9 *enforcement agency, or other entity, to carry out criminal*  
10 *investigation, prosecution, or adjudication activities.*

11       *SEC. 4602. (a) STATUTORY PAYGO.—The budgetary ef-*  
12 *fects of this Act, for the purpose of complying with the Stat-*  
13 *utory Pay-As-You-Go Act of 2010, shall be determined by*  
14 *reference to the latest statement titled “Budgetary Effects*  
15 *of PAYGO Legislation” for this Act, jointly submitted for*  
16 *printing in the Congressional Record by the Chairmen of*  
17 *the House and Senate Budget Committees, provided that*  
18 *such statement has been submitted prior to the vote on pas-*  
19 *sage in the House acting first on this conference report or*  
20 *amendment between the Houses.*

21       *(b) EXCLUSION FROM PAYGO.—*

22               *(1) Savings in this Act that would be subject to*  
23 *inclusion in the Statutory Pay-As-You-Go scorecards*  
24 *are providing an offset to increased discretionary*  
25 *spending. As such, they should not be available on the*

1       scorecards maintained by the Office of Management  
2       and Budget to provide offsets for future legislation.

3               (2) *The Director of the Office of Management*  
4       *and Budget shall not include any net savings result-*  
5       *ing from the changes in direct spending or revenues*  
6       *contained in this Act on the scorecards required to be*  
7       *maintained by OMB under the Statutory Pay-As-*  
8       *You-Go Act of 2010.*

9       ***TITLE V—OTHER PROVISIONS***  
10      ***Subtitle A—Settlements and Other***  
11      ***Program Provisions***

12      ***SEC. 5001. APPROPRIATION OF FUNDS FOR FINAL SETTLE-***  
13      ***MENT OF CLAIMS FROM IN RE BLACK FARM-***  
14      ***ERS DISCRIMINATION LITIGATION.***

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

16               (1) *SETTLEMENT AGREEMENT.—The term “Set-*  
17      *tlement Agreement” means the settlement agreement*  
18      *dated February 18, 2010 (including any modifica-*  
19      *tions agreed to by the parties and approved by the*  
20      *court under that agreement) between certain plain-*  
21      *tiffs, by and through their counsel, and the Secretary*  
22      *of Agriculture to resolve, fully and forever, the claims*  
23      *raised or that could have been raised in the cases con-*  
24      *solidated in In re Black Farmers Discrimination*  
25      *Litigation, No. 08–511 (D.D.C.), including Pigford*

1 *claims asserted under section 14012 of the Food, Con-*  
2 *servation, and Energy Act of 2008 (Public Law 110-*  
3 *246; 122 Stat. 2209).*

4 (2) *PIGFORD CLAIM.*—*The term “Pigford claim”*  
5 *has the meaning given that term in section*  
6 *14012(a)(3) of the Food, Conservation, and Energy*  
7 *Act of 2008 (Public Law 110–246; 122 Stat. 2210).*

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

1           (c) *USE OF FUNDS.*—*The use of the funds appro-*  
2 *priated by subsection (b) shall be subject to the express terms*  
3 *of the Settlement Agreement.*

4           (d) *TREATMENT OF REMAINING FUNDS.*—*If any of the*  
5 *funds appropriated by subsection (b) are not obligated and*  
6 *expended to carry out the Settlement Agreement, the Sec-*  
7 *retary of Agriculture shall return the unused funds to the*  
8 *Treasury and may not make the unused funds available for*  
9 *any purpose related to section 14012 of the Food, Conserva-*  
10 *tion, and Energy Act of 2008, for any other settlement*  
11 *agreement executed in In re Black Farmers Discrimination*  
12 *Litigation, No. 08–511 (D.D.C.), or for any other purpose.*

13           (e) *RULES OF CONSTRUCTION.*—*Nothing in this sec-*  
14 *tion shall be construed as requiring the United States, any*  
15 *of its officers or agencies, or any other party to enter into*  
16 *the Settlement Agreement or any other settlement agree-*  
17 *ment. Nothing in this section shall be construed as creating*  
18 *the basis for a Pigford claim.*

19           (f) *CONFORMING AMENDMENTS.*—*Section 14012 of the*  
20 *Food, Conservation, and Energy Act of 2008 (Public Law*  
21 *110–246; 122 Stat. 2209) is amended—*

22                   (1) *in subsection (c)(1)—*

23                           (A) *by striking “subsection (h)” and insert-*  
24                           *ing “subsection (g)”;* and

1           (B) by striking “subsection (i)” and insert-  
2           ing “subsection (h)”;

3           (2) by striking subsection (e);

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

6           (4) in subsection (i)—

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

9           (B) by striking paragraph (2);

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

11          (6) by redesignating subsections (f), (g), (h), (i),  
12          and (k) as subsections (e), (f), (g), (h), and (i), respec-  
13          tively.

14   **SEC. 5002. EMPLOYMENT FOR YOUTH.**

15          There is appropriated, out of any funds in the Treas-  
16          ury not otherwise appropriated, for an additional amount  
17          for “Department of Labor—Employment and Training Ad-  
18          ministration—Training and Employment Services” for ac-  
19          tivities under the Workforce Investment Act of 1998  
20          (“WIA”), \$1,000,000,000 shall be available for obligation  
21          on the date of enactment of this Act for grants to States  
22          for youth activities, including employment for youth: Pro-  
23          vided, That no portion of such funds shall be reserved to  
24          carry out section 127(b)(1)(A) of the WIA: Provided further,  
25          That for purposes of section 127(b)(1)(C)(iv) of the WIA,



1 *funds available for youth activities shall be allotted as if*  
2 *the total amount available for youth activities in the fiscal*  
3 *year does not exceed \$1,000,000,000: Provided further, That*  
4 *with respect to the youth activities provided with such*  
5 *funds, section 101(13)(A) of the WIA shall be applied by*  
6 *substituting “age 24” for “age 21”:* *Provided further, That*  
7 *the work readiness performance indicator described in sec-*  
8 *tion 136(b)(2)(A)(ii)(I) of the WIA shall be the only meas-*  
9 *ure of performance used to assess the effectiveness of employ-*  
10 *ment for youth provided with such funds: Provided further,*  
11 *That an amount that is not more than 1 percent of such*  
12 *amount may be used for the administration, management,*  
13 *and oversight of the programs, activities, and grants carried*  
14 *out with such funds, including the evaluation of the use of*  
15 *such funds: Provided further, That funds available under*  
16 *the preceding proviso, together with funds described in sec-*  
17 *tion 801(a) of division A of the American Recovery and*  
18 *reinvestment Act of 2009 (Public Law 111–5), and funds*  
19 *provided in such Act under the heading “Department of*  
20 *Labor–Departmental Management–Salaries and Ex-*  
21 *penses”, shall remain available for obligation through Sep-*  
22 *tember 30, 2011.*

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

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

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

7 (1) *AMENDED COMPLAINT.*—*The term “Amended*  
8 *Complaint” means the Amended Complaint attached*  
9 *to the Settlement.*

10 (2) *LAND CONSOLIDATION PROGRAM.*—*The term*  
11 *“Land Consolidation Program” means a program*  
12 *conducted in accordance with the Settlement and the*  
13 *Indian Land Consolidation Act (25 U.S.C. 2201 et*  
14 *seq.) under which the Secretary may purchase frac-*  
15 *tional interests in trust or restricted land.*

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

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

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

24 (6) *SETTLEMENT.*—*The term “Settlement”*  
25 *means the Class Action Settlement Agreement dated*

1       *December 7, 2009, in the Litigation, as modified by*  
2       *the parties to the Litigation.*

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

6       (c) *PURPOSE.*—*The purpose of this section is to au-*  
7       *thorize the Settlement.*

8       (d) *AUTHORIZATION.*—*The Settlement is authorized,*  
9       *ratified, and confirmed.*

10      (e) *JURISDICTIONAL PROVISIONS.*—

11              (1) *IN GENERAL.*—*Notwithstanding the limita-*  
12       *tion of jurisdiction of district courts contained in sec-*  
13       *tion 1346(a)(2) of title 28, United States Code, the*  
14       *United States District Court for the District of Co-*  
15       *lumbia shall have jurisdiction over the claims asserted*  
16       *in the Amended Complaint for purposes of the Settle-*  
17       *ment.*

18              (2) *CERTIFICATION OF TRUST ADMINISTRATION*  
19       *CLASS.*—

20              (A) *IN GENERAL.*—*Notwithstanding the re-*  
21       *quirements of the Federal Rules of Civil Proce-*  
22       *dure, the court overseeing the Litigation may*  
23       *certify the Trust Administration Class.*

24              (B) *TREATMENT.*—*On certification under*  
25       *subparagraph (A), the Trust Administration*

1           Class shall be treated as a class under Federal  
2           Rule of Civil Procedure 23(b)(3) for purposes of  
3           the Settlement.

4           (f) *TRUST LAND CONSOLIDATION.*—

5           (1) *TRUST LAND CONSOLIDATION FUND.*—

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

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

16                           (i) to conduct the Land Consolidation  
17                           Program; and

18                           (ii) for other costs specified in the Set-  
19                           tlement.

20                   (C) *DEPOSITS.*—

21                           (i) *IN GENERAL.*—On final approval  
22                           (as defined in the Settlement) of the Settle-  
23                           ment, the Secretary of the Treasury shall  
24                           deposit in the Trust Land Consolidation  
25                           Fund \$2,000,000,000 of the amounts appro-

1            *priated by section 1304 of title 31, United*  
2            *States Code.*

3            *(ii) CONDITIONS MET.—The conditions*  
4            *described in section 1304 of title 31, United*  
5            *States Code, shall be considered to be met*  
6            *for purposes of clause (i).*

7            *(D) TRANSFERS.—In a manner designed to*  
8            *encourage participation in the Land Consolida-*  
9            *tion Program, the Secretary may transfer, at the*  
10           *discretion of the Secretary, not more than*  
11           *\$60,000,000 of amounts in the Trust Land Con-*  
12           *solidation Fund to the Indian Education Schol-*  
13           *arship Holding Fund established under para-*  
14           *graph 2.*

15           *(2) INDIAN EDUCATION SCHOLARSHIP HOLDING*  
16           *FUND.—*

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

23           *(B) AVAILABILITY.—Notwithstanding any*  
24           *other provision of law governing competition,*  
25           *public notification, or Federal procurement or*

1           *assistance, amounts in the Indian Education*  
2           *Scholarship Holding Fund shall be made avail-*  
3           *able, without further appropriation, to the Sec-*  
4           *retary to contribute to an Indian Education*  
5           *Scholarship Fund, as described in the Settle-*  
6           *ment, to provide scholarships for Native Ameri-*  
7           *cans.*

8           (3) *ACQUISITION OF TRUST OR RESTRICTED*  
9           *LAND.—The Secretary may acquire, at the discretion*  
10          *of the Secretary and in accordance with the Land*  
11          *Consolidation Program, any fractional interest in*  
12          *trust or restricted land.*

13          (4) *TREATMENT OF UNLOCATABLE PLAIN-*  
14          *TIFFS.—A Plaintiff the whereabouts of whom are un-*  
15          *known and who, after reasonable efforts by the Sec-*  
16          *retary, cannot be located during the 5 year period be-*  
17          *ginning on the date of final approval (as defined in*  
18          *the Settlement) of the Settlement shall be considered*  
19          *to have accepted an offer made pursuant to the Land*  
20          *Consolidation Program.*

21          (g) *TAXATION AND OTHER BENEFITS.—*

22                 (1) *INTERNAL REVENUE CODE.—For purposes of*  
23                 *the Internal Revenue Code of 1986, amounts received*  
24                 *by an individual Indian as a lump sum or a periodic*  
25                 *payment pursuant to the Settlement—*

1           (A) shall not be included in gross income;  
2           and

3           (B) shall not be taken into consideration for  
4           purposes of applying any provision of the Inter-  
5           nal Revenue Code of 1986 that takes into ac-  
6           count excludable income in computing adjusted  
7           gross income or modified adjusted gross income,  
8           including section 86 of that Code (relating to So-  
9           cial Security and tier 1 railroad retirement ben-  
10          efits).

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

20                 (A) as income for the month during which  
21                 the amounts were received; or

22                 (B) as a resource.

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

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

7 (1) in paragraph (1)—

8 (A) in the matter preceding subparagraph

9 (A)—

10 (i) by striking “1301, 1302,”; and

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

12 (B) in subparagraph (A)—

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

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

25 (2) in paragraph (2)—



1           (A) *in the matter preceding subparagraph*

2           (A)—

3                   (i) *by striking “1301, 1302,”; and*

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

5           (B) *in subparagraph (A)—*

6                   (i) *in the matter preceding clause (i)*

7                   *by striking “apportioned under sections*

8                   *104(b) and 144 of title 23, United States*

9                   *Code,” and inserting “specified in section*

10                   *105(a)(2) of title 23, United States Code*

11                   *(except the high priority projects pro-*

12                   *gram),”;* and

13                   (ii) *in clause (ii) by striking “appor-*

14                   *tioned under such sections of such Code”*

15                   *and inserting “specified in such section*

16                   *105(a)(2) (except the high priority projects*

17                   *program),”;* and

18           (3) *by adding at the end the following:*

19                   “(5) *PROJECTS OF NATIONAL AND REGIONAL SIG-*

20                   *NIFICANCE AND NATIONAL CORRIDOR INFRASTRUC-*

21                   *TURE IMPROVEMENT PROGRAMS.—*

22                   “(A) *REDISTRIBUTION AMONG STATES.—*

23                   *Notwithstanding sections 1301(m) and 1302(e) of*

24                   *SAFETEA-LU (119 Stat. 1202 and 1205), the*

25                   *Secretary shall apportion funds authorized to be*

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

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

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

18                           “(I) *the amount apportioned to*  
19                           *the State for that program for fiscal*  
20                           *year 2009; bears to*

21                           “(II) *the amount apportioned to*  
22                           *the State for fiscal year 2009 for all*  
23                           *such programs; and*

24                           “(ii) *administered in the same manner*  
25                           *and with the same period of availability as*

1                   *funding is administered under programs*  
2                   *identified in clause (i).”.*

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

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

14           **(d) SAVINGS CLAUSE.—**

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

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

7           (B) the amount that the State is authorized  
8           to receive under section 411(d) of the Surface  
9           Transportation Extension Act of 2010 with re-  
10          spect to each such program pursuant to the pro-  
11          visions of that Act, as amended by the amend-  
12          ments made by this section.

13          (2) OBLIGATION AUTHORITY.—For fiscal year  
14          2010, the amount of obligation authority distributed  
15          to each State shall be the greater of—

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

24               (B) the amount that the State is authorized  
25               to receive pursuant to section 120(a)(4)(A) (as it

1           *pertains to the Appalachian Development High-*  
2           *way System program) of title I of division A of*  
3           *the Consolidated Appropriations Act, 2010 (Pub-*  
4           *lic Law 111–117) and sections 120(a)(4)(B) and*  
5           *120(a)(6) of such title, as of the date of enact-*  
6           *ment of this Act.*

7           (3) *AUTHORIZATION OF APPROPRIATIONS.—*  
8           *There is authorized to be appropriated out of the*  
9           *Highway Trust Fund (other than the Mass Transit*  
10           *Account) such sums as may be necessary to carry out*  
11           *this subsection.*

12           (4) *INCREASE IN OBLIGATION LIMITATION.—The*  
13           *limitation under the heading “Federal-aid Highways*  
14           *(Limitation on Obligations) (Highway Trust Fund)”*  
15           *in Public Law 111–117 is increased by such sums as*  
16           *may be necessary to carry out this subsection.*

17           (5) *CONTRACT AUTHORITY.—Funds made avail-*  
18           *able to carry out this subsection shall be available for*  
19           *obligation and administered in the same manner as*  
20           *if such funds were apportioned under chapter 1 of*  
21           *title 23, United States Code.*

22           (6) *AMOUNTS.—The dollar amount specified in*  
23           *section 105(d)(1) of title 23, United States Code, the*  
24           *dollar amount specified in section 120(a)(4)(B) of*  
25           *title I of division A of the Consolidated Appropria-*



1 paragraph) which is retained by the transferor, such  
 2 interest shall be treated as described in such para-  
 3 graph only if—

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

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

11 “(C) the remainder interest has a value  
 12 greater than zero determined as of the time of the  
 13 transfer.”.

14 (b) *EFFECTIVE DATE.*—The amendments made by this  
 15 section shall apply to transfers made after the date of the  
 16 enactment of this Act.

17 **SEC. 5102. CRUDE TALL OIL INELIGIBLE FOR CELLULOSIC**  
 18 **BIOFUEL PRODUCER CREDIT.**

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

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

22 (2) by striking the period at the end of subclause  
 23 (II) and inserting “, or”,

24 (3) by adding at the end the following new sub-  
 25 clause:

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

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

5                   (b) *EFFECTIVE DATE.*—The amendment made by this  
6                   section shall apply to fuels sold or used on or after January  
7                   1, 2010.

8                   **SEC. 5103. TIME FOR PAYMENT OF CORPORATE ESTIMATED**  
9                   **TAXES.**

10                  The percentage under paragraph (2) of section 561 of  
11                  the *Hiring Incentives to Restore Employment Act* in effect  
12                  on the date of the enactment of this Act is increased by  
13                  5.25 percentage points.

14                  **Subtitle C—Budgetary Provisions**

15                  **SEC. 5201. BUDGETARY PROVISIONS.**

16                  (a) *STATUTORY PAYGO.*—The budgetary effects of this  
17                  Act, for the purpose of complying with the *Statutory Pay-*  
18                  *As-You-Go Act of 2010*, shall be determined by reference to  
19                  the latest statement titled “*Budgetary Effects of PAYGO*  
20                  *Legislation*” for this Act, jointly submitted for printing in  
21                  the *Congressional Record* by the Chairmen of the House and  
22                  Senate Budget Committees, provided that such statement  
23                  has been submitted prior to the vote on passage in the House  
24                  acting first on this conference report or amendment between  
25                  the Houses.



1       **(b) EXCLUSION FROM PAYGO.—**

2               *(1) Savings in this Act that would be subject to*  
3       *inclusion in the Statutory Pay-As-You-Go scorecards*  
4       *are providing an offset to increased discretionary*  
5       *spending. As such, they should not be available on the*  
6       *scorecards maintained by the Office of Management*  
7       *and Budget to provide offsets for future legislation.*

8               *(2) The Director of the Office of Management*  
9       *and Budget shall not include any net savings result-*  
10       *ing from the changes in direct spending or revenues*  
11       *contained in this Act on the scorecards required to be*  
12       *maintained by OMB under the Statutory Pay-As-*  
13       *You-Go Act of 2010.*

Attest:

*Clerk.*

# **H.R. 4899**

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**HOUSE AMENDMENT TO  
SENATE AMENDMENT**