

**AMENDMENT TO THE SENATE ENGROSSED
AMENDMENT TO THE TEXT OF H.R. 4899**

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
8 Act of 1974, commitments to guarantee loans under title
9 XVII of the Energy Policy Act of 2005, shall not exceed
10 a total principal amount of \$18,000,000,000 for eligible
11 projects, to remain available until committed, of which
12 \$9,000,000,000 shall be for nuclear power facilities and
13 \$9,000,000,000 shall be for renewable energy system and
14 efficient end-use energy technology projects: *Provided*,
15 That these amounts are in addition to authorities provided
16 in any other Act: *Provided further*, That for amounts col-
17 lected pursuant to section 1702(b)(2) of the Energy Policy
18 Act of 2005, the source of such payment received from
19 borrowers is not a loan or other debt obligation that is
20 guaranteed by the Federal Government: *Provided further*,

1 That none of the loan guarantee authority made available
2 in this paragraph shall be available for commitments to
3 guarantee loans for any projects where funds, personnel,
4 or property (tangible or intangible) of any Federal agency,
5 instrumentality, personnel, or affiliated entity are expected
6 to be used (directly or indirectly) through acquisitions,
7 contracts, demonstrations, exchanges, grants, incentives,
8 leases, procurements, sales, other transaction authority, or
9 other arrangements, to support the project or to obtain
10 goods or services from the project: *Provided further*, That
11 the previous proviso shall not be interpreted as precluding
12 the use of the loan guarantee authority in this paragraph
13 for commitments to guarantee loans for projects as a re-
14 sult of such projects benefitting from (1) otherwise allow-
15 able Federal income tax benefits; (2) being located on
16 Federal land pursuant to a lease or right-of-way agree-
17 ment for which all consideration for all uses is (A) paid
18 exclusively in cash, (B) deposited in the Treasury as off-
19 setting receipts, and (C) equal to the fair market value
20 as determined by the head of the relevant Federal agency;
21 (3) Federal insurance programs, including under section
22 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210;
23 commonly known as the “Price-Anderson Act”); or (4) for
24 electric generation projects, use of transmission facilities
25 owned or operated by a Federal Power Marketing Admin-

1 istration or the Tennessee Valley Authority that have been
2 authorized, approved, and financed independent of the
3 project receiving the guarantee: *Provided further*, That
4 none of the loan guarantee authority made available in
5 this paragraph shall be available for any project unless
6 the Director of the Office of Management and Budget has
7 certified in advance in writing that the loan guarantee and
8 the project comply with the provisions under this para-
9 graph: *Provided further*, That none of the loan guarantee
10 authority made available in this paragraph may be used
11 to make a final or conditional loan guarantee award unless
12 the Secretary of Energy provides notification of the award,
13 including the proposed subsidy cost, to the Committees on
14 Appropriations of the Senate and the House of Represent-
15 atives at least 3 full business days in advance of such
16 award: *Provided further*, That section 3002 shall not apply
17 to the amounts under this heading.

18 DEPARTMENTAL ADMINISTRATION

19 For necessary expenses of the National Commission
20 on the BP Deepwater Horizon Oil Spill and Offshore
21 Drilling established by, and in order to carry out activities
22 under, Executive Order 13543, \$12,000,000, to remain
23 available until September 30, 2011: *Provided*, That funds
24 appropriated in this paragraph may be used to reimburse

1 obligations incurred for the purposes provided herein prior
2 to enactment of this Act.

3 DEPARTMENT OF HOMELAND SECURITY

4 U.S. CUSTOMS AND BORDER PROTECTION

5 SALARIES AND EXPENSES

6 For an additional amount for “Salaries and Ex-
7 penses”, \$356,900,000, to remain available until Sep-
8 tember 30, 2012, of which \$78,000,000 shall be for costs
9 to maintain U.S. Customs and Border Protection Officer
10 staffing on the Southwest Border of the United States,
11 \$58,000,000 shall be for hiring additional U.S. Customs
12 and Border Protection Officers for deployment at ports
13 of entry on the Southwest Border of the United States,
14 \$208,400,000 shall be for hiring additional Border Patrol
15 agents for deployment to the Southwest Border of the
16 United States, \$2,500,000 shall be for forward operating
17 bases on the Southwest Border of the United States, and
18 \$10,000,000 shall be to support integrity and background
19 investigation programs.

20 BORDER SECURITY FENCING, INFRASTRUCTURE, AND

21 TECHNOLOGY

22 For an additional amount for “Border Security Fenc-
23 ing, Infrastructure, and Technology,” \$14,000,000, to re-
24 main available until September 30, 2011, for costs of de-
25 signing, building, and deploying tactical communications

1 for support of enforcement activities on the Southwest
2 Border of the United States.

3 AIR AND MARINE INTERDICTION, OPERATIONS,
4 MAINTENANCE, AND PROCUREMENT

5 For an additional amount for “Air and Marine Inter-
6 diction, Operations, Maintenance, and Procurement”,
7 \$32,000,000, to remain available until September 30,
8 2012, for costs of acquisition and deployment of un-
9 manned aircraft systems.

10 CONSTRUCTION AND FACILITIES MANAGEMENT

11 For an additional amount for “Construction and Fa-
12 cilities Management”, \$9,000,000, to remain available
13 until September 30, 2011, for costs to construct up to
14 three forward operating bases for use by the Border Patrol
15 to carry out enforcement activities on the Southwest Bor-
16 der of the United States.

17 U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

18 SALARIES AND EXPENSES

19 For an additional amount for ‘Salaries and Ex-
20 penses’, \$30,000,000, to remain available until September
21 30, 2011, for law enforcement activities targeted at reduc-
22 ing the threat of violence along the Southwest Border of
23 the United States.

1 FEDERAL EMERGENCY MANAGEMENT AGENCY

2 STATE AND LOCAL PROGRAMS

3 For an additional amount for “State and Local Pro-
4 grams”, \$50,000,000 to remain available until September
5 30, 2011, for Operation Stonegarden.

6 FEDERAL LAW ENFORCEMENT TRAINING CENTER

7 SALARIES AND EXPENSES

8 For an additional amount for “Salaries and Ex-
9 penses”, \$8,100,000, to remain available until September
10 30, 2011, for costs to provide basic training for new U.S.
11 Customs and Border Protection Officers and Border Pa-
12 trol agents.

13 DEPARTMENT OF EDUCATION

14 EDUCATION JOBS FUND

15 For necessary expenses for an Education Jobs Fund,
16 \$10,000,000,000: *Provided*, That section 3002 shall not
17 apply to \$1,300,000,000 of the amount under this head-
18 ing: *Provided further*, That the amount under this heading
19 shall be administered under the terms and conditions of
20 sections 14001 through 14013 and title XV of division A
21 of the American Recovery and Reinvestment Act of 2009
22 (Public Law 111–5) except as follows:

23 (1) ALLOCATION OF FUNDS.—

24 (A) Funds appropriated under this heading
25 shall be available only for allocation by the Sec-

1 retary of Education (in this heading referred to
2 as the “Secretary”) in accordance with sub-
3 sections (a), (b), (d), (e), and (f) of section
4 14001 of division A of Public Law 111–5 and
5 subparagraph (B) of this paragraph, except
6 that the amount reserved under such subsection
7 (b) shall not exceed \$1,000,000 and such sub-
8 section (f) shall be applied by substituting “one
9 year” for “two years”.

10 (B) Prior to allocating funds to States
11 under section 14001(d) of division A of Public
12 Law 111–5, the Secretary shall allocate 0.5
13 percent to the Secretary of the Interior for
14 schools operated or funded by the Bureau of In-
15 dian Affairs on the basis of the schools’ respec-
16 tive needs for activities consistent with this
17 heading under such terms and conditions as the
18 Secretary of the Interior may determine.

19 (2) RESERVATION.—A State that receives an
20 allocation of funds appropriated under this heading
21 may reserve not more than 2 percent for the admin-
22 istrative costs of carrying out its responsibilities with
23 respect to those funds.

24 (3) AWARDS TO LOCAL EDUCATIONAL AGEN-
25 CIES.—

1 (A) Except as specified in paragraph (2),
2 an allocation of funds to a State shall be used
3 only for awards to local educational agencies for
4 the support of elementary and secondary edu-
5 cation in accordance with paragraph (5) for the
6 2010–2011 school year (or, in the case of re-
7 allocations made under section 14001(f) of divi-
8 sion A of Public Law 111–5, for the 2010–
9 2011 or the 2011–2012 school year).

10 (B) Funds used to support elementary and
11 secondary education shall be distributed
12 through a State’s primary elementary and sec-
13 ondary funding formulae or 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 for which
18 data are available.

19 (C) Subsections (a) and (b) of section
20 14002 of division A of Public Law 111–5 shall
21 not apply to funds appropriated under this
22 heading.

23 (4) COMPLIANCE WITH EDUCATION REFORM AS-
24 SURANCES.—For purposes of awarding funds appro-
25 priated under this heading, any State that has an

1 approved application for Phase II of the State Fiscal
2 Stabilization Fund that was submitted in accordance
3 with the application notice published in the Federal
4 Register on November 17, 2009 (74 Fed. Reg.
5 59142) shall be deemed to be in compliance with
6 subsection (b) and paragraphs (2) through (5) of
7 subsection (d) of section 14005 of division A of Pub-
8 lic Law 111–5.

9 (5) REQUIREMENT TO USE FUNDS TO RETAIN
10 OR CREATE EDUCATION JOBS.—Notwithstanding
11 section 14003(a) of division A of Public Law 111–
12 5, funds awarded to local educational agencies under
13 paragraph (3)—

14 (A) may be used only for compensation
15 and benefits and other expenses, such as sup-
16 port services, necessary to retain existing em-
17 ployees, to recall or rehire former employees,
18 and to hire new employees, in order to provide
19 early childhood, elementary, or secondary edu-
20 cational and related services; and

21 (B) may not be used for “general adminis-
22 trative expenses” or for “other support services
23 expenditures” as those terms were defined by
24 the National Center for Education Statistics in

1 its Common Core of Data as of the date of en-
2 actment of this Act.

3 (6) PROHIBITION ON USE OF FUNDS FOR
4 RAINY-DAY FUNDS OR DEBT RETIREMENT.—A State
5 that receives an allocation may not use such funds,
6 directly or indirectly, to—

7 (A) establish, restore, or supplement a
8 rainy-day fund;

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

12 (C) reduce or retire debt obligations in-
13 curred by the State; or

14 (D) supplant State funds in a manner that
15 has the effect of reducing or retiring debt obli-
16 gations incurred by the State.

17 (7) DEADLINE FOR AWARD.—The Secretary
18 shall award funds appropriated under this heading
19 not later than 45 days after the date of the enact-
20 ment of this Act to States that have submitted ap-
21 plications meeting the requirements applicable to
22 funds under this heading. The Secretary shall not
23 require information in applications beyond what is
24 necessary to determine compliance with applicable
25 provisions of law.

1 (8) ALTERNATE DISTRIBUTION OF FUNDS.—If,
2 within 30 days after the date of the enactment of
3 this Act, a Governor has not submitted an approv-
4 able application, the Secretary shall provide for
5 funds allocated to that State to be distributed to an-
6 other entity or other entities in the State (notwith-
7 standing section 14001(e) of division A of Public
8 Law 111–5) for support of elementary and sec-
9 ondary education, under such terms and conditions
10 as the Secretary may establish, provided that all
11 terms and conditions that apply to funds appro-
12 priated under this heading shall apply to such funds
13 distributed to such entity or entities. No distribution
14 shall be made to a State under this paragraph, how-
15 ever, unless the Secretary has determined (on the
16 basis of such information as may be available) that
17 the requirements of clauses (i), (ii), or (iii) of para-
18 graph 10(A) are likely to be met, notwithstanding
19 the lack of an application from the Governor of that
20 State.

21 (9) LOCAL EDUCATIONAL AGENCY APPLICA-
22 TION.—Section 442 of the General Education Provi-
23 sions Act shall not apply to a local educational agen-
24 cy that has previously submitted an application to
25 the State under title XIV of division A of Public

1 Law 111–5. The assurances provided under that ap-
2 plication shall continue to apply to funds awarded
3 under this heading.

4 (10) MAINTENANCE OF EFFORT.—

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

10 (i) for State fiscal year 2011, the
11 State will maintain State support for ele-
12 mentary and secondary education (in the
13 aggregate or on the basis of expenditures
14 per pupil) and for public institutions of
15 higher education (not including support for
16 capital projects or for research and devel-
17 opment or tuition and fees paid by stu-
18 dents) at not less than the level of such
19 support for each of the two categories, re-
20 spectively, for State fiscal year 2009;

21 (ii) for State fiscal year 2011, the
22 State will maintain State support for ele-
23 mentary and secondary education and for
24 public institutions of higher education (not
25 including support for capital projects or for

1 research and development or tuition and
2 fees paid by students) at a percentage of
3 the total revenues available to the State
4 that is equal to or greater than the per-
5 centage provided for each of the two cat-
6 egories, respectively, for State fiscal year
7 2010; or

8 (iii) in the case of a State in which
9 State tax collections for calendar year
10 2009 were less than State tax collections
11 for calendar year 2006, for State fiscal
12 year 2011 the State will maintain State
13 support for elementary and secondary edu-
14 cation (in the aggregate) and for public in-
15 stitutions of higher education (not includ-
16 ing support for capital projects or for re-
17 search and development or tuition and fees
18 paid by students)—

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

23 (II) at a percentage of the total
24 revenues available to the State that is
25 equal to or greater than the percent-

1 age provided for each of the two cat-
2 egories, respectively, for State fiscal
3 year 2006.

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

8 STUDENT FINANCIAL ASSISTANCE

9 For an additional amount for “Student Financial As-
10 sistance”, \$4,950,000,000, to remain available through
11 September 30, 2011, to carry out subpart 1 of part A of
12 title IV of the Higher Education Act of 1965: *Provided*,
13 That section 3002 shall not apply to the amount under
14 this heading.

15 DEPARTMENT OF DEFENSE

16 MILITARY CONSTRUCTION, ARMY

17 For an additional amount for “Military Construction,
18 Army”, \$16,500,000, to remain available until September
19 30, 2011, for a soldier readiness processing center: *Pro-*
20 *vided*, That notwithstanding any other provision of law,
21 such funds may be obligated and expended to carry out
22 planning and design and military construction projects not
23 otherwise authorized by law: *Provided further*, That sec-
24 tion 3002 shall not apply to the amount under this head-
25 ing.

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

3 (RESCISSION)

4 SEC. 4104. Of the funds made available for “Depart-
5 ment of Agriculture—Rural Utilities Service—Distance
6 Learning, Telemedicine, and Broadband Program” in title
7 I of division A of Public Law 111–5 (123 Stat. 118),
8 \$300,000,000 is rescinded.

9 (RESCISSION)

10 SEC. 4105. There is rescinded from accounts under
11 the heading “Department of Agriculture—Food and Nu-
12 trition Service—Special Supplemental Nutrition Program
13 for Women, Infants, and Children (WIC)”, \$361,825,000,
14 to be derived from unobligated balances available from
15 amounts placed in reserve in title I of division A of Public
16 Law 111–5 (123 Stat. 115).

17 (RESCISSION)

18 SEC. 4106. Of the unobligated balances available for
19 “Department of Agriculture—Food and Nutrition Serv-
20 ice—Special Supplemental Nutrition Program for Women,
21 Infants, and Children (WIC)” as authorized by section 17
22 of the Child Nutrition Act of 1966 (42 U.S.C. 1786),
23 \$125,000,000 is rescinded: *Provided*, That section 3002
24 shall not apply to the amount in this section.

1 (RESCISSION)

2 SEC. 4107. Of the funds appropriated under the
3 heading “Department of Commerce—National Institute of
4 Standards and Technology—Construction of Research Fa-
5 cilities” in title II of division A of Public Law 111–5 (123
6 Stat. 129) \$15,000,000 is rescinded.

7 (RESCISSION)

8 SEC. 4108. Of the funds made available for “Depart-
9 ment of Commerce—National Telecommunications and
10 Information Administration—Broadband Technology Op-
11 portunities Program” in title II of division A of Public
12 Law 111–5, \$302,000,000 is rescinded.

13 SEC. 4109. For an additional amount for the Depart-
14 ment of Justice for necessary expenses for increased law
15 enforcement activities related to Southwest border en-
16 forcement, \$201,000,000, to remain available until Sep-
17 tember 30, 2011: *Provided*, That funds shall be distrib-
18 uted to the following accounts and in the following speci-
19 fied amounts:

20 (1) “Administrative Review and Appeals”,
21 \$2,118,000;

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

23 (3) “Legal Activities, Salaries and Expenses,
24 General Legal Activities”, \$3,862,000;

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

1 (5) “United States Marshals Service, Salaries
2 and Expenses”, \$29,651,000;

3 (6) “United States Marshals Service, Construc-
4 tion”, \$8,000,000;

5 (7) “Interagency Law Enforcement, Inter-
6 agency Crime and Drug Enforcement”,
7 \$21,000,000;

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

10 (9) “Drug Enforcement Administration, Sala-
11 ries and Expenses”, \$35,805,000;

12 (10) “Bureau of Alcohol, Tobacco, Firearms
13 and Explosives, Salaries and Expenses”,
14 \$39,104,000; and

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

17 SEC. 4110. Section 8005 of the Department of De-
18 fense Appropriations Act, 2010 (division A of Public Law
19 111–118) is amended by striking the dollar amount speci-
20 fied in such section and inserting “\$6,000,000,000”: *Pro-*
21 *vided*, That section 3002 shall not apply to the amount
22 in this section: *Provided further*, That the amendment
23 made by this section shall apply in lieu of any amendment
24 made by another provision of this Act to such dollar
25 amount.

1 SEC. 4111. With respect to the multiyear procure-
2 ment of F/A–18E, F/A–18F, and EA–18G aircraft—

3 (1) section 8011 of division A of Public Law
4 111–118 is amended by striking “within 30 days of
5 enactment of this Act” and inserting “30 days prior
6 to contract award”;

7 (2) the term “March 1 of the year in which the
8 Secretary requests legislative authority to enter into
9 such contract,” in section 2306b(i)(1) of title 10,
10 United States Code, and section 128(a)(2) of Public
11 Law 111–84, shall be deemed to be a reference to
12 September 1, 2010;

13 (3) the Secretary of Defense may submit the re-
14 port identified in section 2306b(l)(4) of title 10,
15 United States Code, to the congressional defense
16 committees on or before September 1, 2010; and

17 (4) the authority provided in section 8011 of
18 Public Law 111–118 and section 128(a) of Public
19 Law 111–84, as amended by this section, shall sat-
20 isfy, with respect to the procurement of F/A–18E,
21 F/A–18F, and EA–18G aircraft, the requirements of
22 sections 2306b(i)(3) and 2306b(l)(3) of title 10,
23 United States Code, that a multiyear contract be au-
24 thorized by law in an appropriations Act and an Act
25 other than an appropriations Act.

1 for an additional amount for “Operation and Mainte-
2 nance, Defense-Wide”, to remain available until expended.
3 Such funds may be available for the Office of Economic
4 Adjustment, notwithstanding any other provision of law,
5 for transportation infrastructure improvements associated
6 with medical facilities related to recommendations of the
7 Defense Base Closure and Realignment Commission.

8 (b) Of the funds appropriated for “Defense Health
9 Program” in title VI of division A of Public Law 111-
10 118, \$300,000,000 is rescinded, to be derived from
11 amounts for operation and maintenance.

12 (c) Section 3002 shall not apply to the amounts in
13 this section.

14 (RESCISSION)

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

19 “Shipbuilding and Conversion, Navy, 2006/
20 2010”, \$107,000,000;

21 “Aircraft Procurement, Army, 2008/2010”,
22 \$21,000,000;

23 “Procurement of Weapons and Tracked Combat
24 Vehicles, Army, 2008/2010”, \$21,000,000;

1 “Procurement of Ammunition, Army, 2008/
2 2010”, \$17,000,000;

3 “Other Procurement, Army, 2008/2010”,
4 \$75,000,000;

5 “Aircraft Procurement, Navy, 2008/2010”,
6 \$166,000,000;

7 “Weapons Procurement, Navy, 2008/2010”,
8 \$26,000,000;

9 “Other Procurement, Navy, 2008/2010”,
10 \$42,000,000;

11 “Procurement, Marine Corps, 2008/2010”,
12 \$13,000,000;

13 “Aircraft Procurement, Air Force, 2008/2010”,
14 \$102,000,000;

15 “Missile Procurement, Air Force, 2008/2010”,
16 \$28,000,000;

17 “Procurement of Ammunition, Air Force, 2008/
18 2010”, \$7,000,000;

19 “Other Procurement, Air Force, 2008/2010”,
20 \$130,000,000;

21 “Procurement, Defense-Wide, 2008/2010”,
22 \$33,000,000;

23 “Research, Development, Test and Evaluation,
24 Army, 2009/2010”, \$76,000,000;

1 “Research, Development, Test and Evaluation,
2 Navy, 2009/2010”, \$131,000,000;

3 “Research, Development, Test and Evaluation,
4 Air Force, 2009/2010”, \$164,000,000;

5 “Research, Development, Test and Evaluation,
6 Defense-Wide, 2009/2010”, \$137,000,000;

7 “Operation, Test and Evaluation, Defense,
8 2009/2010”, \$1,000,000;

9 “Operation and Maintenance, Army, 2010”,
10 \$154,000,000;

11 “Operation and Maintenance, Navy, 2010”,
12 \$155,000,000;

13 “Operation and Maintenance, Marine Corps,
14 2010”, \$25,000,000;

15 “Operation and Maintenance, Air Force,
16 2010”, \$155,000,000;

17 “Operation and Maintenance, Defense-Wide,
18 2010”, \$126,000,000;

19 “Operation and Maintenance, Army Reserve,
20 2010”, \$12,000,000;

21 “Operation and Maintenance, Navy Reserve,
22 2010”, \$6,000,000;

23 “Operation and Maintenance, Marine Corps Re-
24 serve, 2010”, \$1,000,000;

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

3 “Operation and Maintenance, Air Force Re-
4 serve, 2009/2010”, \$2,000,000;

5 “Operation and Maintenance, Army National
6 Guard, 2009/2010”, \$1,000,000;

7 “Operation and Maintenance, Air National
8 Guard, 2009/2010”, \$2,500,000; and

9 “Defense Health Program, 2009/2010”,
10 \$27,000,000.

11 (b) Of the funds appropriated in the Supplemental
12 Appropriations Act, 2008 (Public Law 110–252), the fol-
13 lowing funds are rescinded from the following account in
14 the specified amount:

15 “Procurement, Marine Corps, 2008/2010”,
16 \$177,180,000.

17 (INCLUDING TRANSFER OF FUNDS AND RESCISSIONS)

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

1 provision of law, to make grants, conclude cooperative
2 agreements, or supplement other Federal funds to con-
3 struct, renovate, repair, or expand elementary and sec-
4 ondary public schools on military installations in order to
5 address capacity or facility condition deficiencies at such
6 schools: *Provided further*, That in making such funds
7 available, the Office of Economic Adjustment or the Sec-
8 retary of Education shall give priority consideration to
9 those military installations with schools having the most
10 serious capacity or facility condition deficiencies as deter-
11 mined by the Secretary of Defense.

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

16 (2) Of the funds appropriated under the heading
17 “Operation and Maintenance, Army” in title II of division
18 A of Public Law 111–118, \$100,000,000 is rescinded.

19 (3) Of the funds appropriated for “Other Procure-
20 ment, Army” in title III of division C of Public Law 110–
21 329, \$87,000,000 is rescinded.

22 (c) Section 3002 shall not apply to amounts in this
23 section.

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

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

6 “(b) SPECIFIC APPROPRIATION OR CONTRIBU-
7 TION.—

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

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

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

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

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

1 (2) by adding at the end the following:

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

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

20 (b) APPLICATIONS FOR MULTIPLE ELIGIBLE
21 PROJECTS.—Section 1705 of the Energy Policy Act of
22 2005 (42 U.S.C. 16516) is amended—

23 (1) by redesignating subsection (e) as sub-
24 section (f); and

1 (2) by inserting after subsection (d) the fol-
2 lowing:

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

9 (c) ENERGY EFFICIENCY LOAN GUARANTEES.—Sec-
10 tion 1705(a) of the Energy Policy Act of 2005 (42 U.S.C.
11 16516(a)) is amended by adding at the end the following:

12 “(4) Efficient end-use energy technologies.

13 “(5) Combined heat and power or industrial
14 waste energy recovery projects.”.

15 (d) ADMINISTRATIVE COSTS.—Section 136 of the
16 Energy Independence and Security Act of 2007 (42
17 U.S.C. 17013) is amended by striking subsection (f) and
18 inserting the following:

19 “(f) FEES.—The Secretary is authorized to
20 charge and collect fees from applicants for or recipi-
21 ents of an award or loan to cover administrative
22 costs. For any given loan or award, such fees shall
23 not exceed \$100,000 or 10 basis points of the loan
24 or award. In addition to the foregoing fees, the Sec-
25 retary may require applicants for and recipients of

1 an award or loan under this section to pay directly,
2 or through the payment of fees to be used by the
3 Secretary to pay, all fees and expenses of agents,
4 consultants, and professional advisors retained by
5 the Secretary in connection with activities authorized
6 under this section.”.

7 (RESCISSIONS)

8 SEC. 4118. There are rescinded the following
9 amounts from the specified accounts:

10 (1) \$35,000,000, to be derived from unobli-
11 gated balances made available under “Mississippi
12 River and Tributaries” in Public Law 110–329.

13 (2) \$4,874,037, to be derived from unobligated
14 balances made available under “Flood Control and
15 Coastal Emergencies” in Public Law 109–234.

16 (3) \$5,005,400, to be derived from unobligated
17 balances made available under “Flood Control and
18 Coastal Emergencies” in title V of Public Law 110–
19 28.

20 (4) \$2,199,629, to be derived from unobligated
21 balances made available under “Construction” in
22 Public Law 109–148.

23 (RESCISSIONS)

24 SEC. 4119. (a) There are rescinded the following
25 amounts from the specified accounts:

1 111–8 and Public Law 111–85 for biomass and bio-
2 refinery research, development, and demonstration.

3 (2) \$71,000,000, to be derived from unobli-
4 gated balances of funds made available in prior ap-
5 propriations Acts under the heading “Department of
6 Energy—Strategic Petroleum Reserve”, including
7 \$14,493,000 provided in Public Law 110–161 for
8 new site land acquisition activities; \$31,507,000 pro-
9 vided in Public Law 111–8 for new site expansion
10 activities, beyond land acquisition; and \$25,000,000
11 provided in Public Law 111–85.

12 (3) \$20,000,000, to be derived from unobli-
13 gated balances of funds made available in prior ap-
14 propriations Acts under the heading “Department of
15 Energy—Nuclear Energy”.

16 (b) Section 3002 shall not apply to amounts in this
17 section.

18 (RESCISSION)

19 SEC. 4121. Of the unobligated balances of funds pro-
20 vided under the heading “Nuclear Regulatory Commis-
21 sion” in prior appropriations Acts, \$18,000,000 is perma-
22 nently rescinded: *Provided*, That section 3002 shall not
23 apply to the amount in this section.

24 (RESCISSION)

25 SEC. 4122. From unobligated balances of prior year
26 appropriations made available to “Domestic Nuclear De-

1 tection Office—Systems Acquisition”, \$50,000,000 is re-
2 scinded: *Provided*, That section 3002 shall not apply to
3 the amount in this section.

4 SEC. 4123. (a) The Administrator of General Serv-
5 ices, not later than 90 days after the date of enactment
6 of this Act, shall prepare and submit to the Congress a
7 building project survey report related to a consolidated
8 headquarters for the Federal Bureau of Investigation in
9 the Washington metropolitan region (as defined in section
10 8301 of title 40, United States Code).

11 (b) The building project survey report shall be pre-
12 pared by the Administrator of General Services in con-
13 sultation with the Director of the Federal Bureau of In-
14 vestigation, and each strategy described in the report shall
15 contain, at a minimum, an estimated cost, a financing and
16 development plan, a budgetary and financial impact anal-
17 ysis, a procurement and implementation plan, an analysis
18 of security and information technology issues specific to
19 the Federal Bureau of Investigation, and a schedule.

20 (c) The building project survey report shall identify
21 a preferred strategy.

22 (RESCISSION)

23 SEC. 4124. There are permanently rescinded from
24 “General Services Administration—Real Property Activi-
25 ties—Federal Building Fund”, \$75,000,000 from Rental
26 of Space and \$25,000,000 from Building Operations, to

1 be derived from unobligated balances that were provided
2 in previous appropriations Acts: *Provided*, That section
3 3002 shall not apply to the amount in this section.

4 (INCLUDING TRANSFER OF FUNDS)

5 SEC. 4125. (a) The Secretary of Homeland Security
6 may transfer to the Secretary of the Interior amounts
7 available for environmental mitigation requirements for
8 “U.S. Customs and Border Protection—Border Security
9 Fencing, Infrastructure, and Technology” for fiscal year
10 2009 or thereafter, for use by the Secretary of the Interior
11 under laws administered by such Secretary to mitigate ad-
12 verse environmental impacts, including impact on species
13 listed under the Endangered Species Act of 1973 (16
14 U.S.C. 1531 et seq.) resulting from construction, oper-
15 ation, and maintenance activities related to border secu-
16 rity.

17 (b) Uses of funds authorized by this section include
18 acquisition of land or interests in land that will, in the
19 judgment of the Secretary of the Interior, mitigate or off-
20 set such adverse impacts.

21 (c) Any funds transferred under this section shall be
22 used in accordance with an agreement between the Secre-
23 taries.

24 (d) Not later than September 30, 2010, and on an
25 annual basis thereafter, the Secretary of the Interior shall

1 submit to the Committees on Appropriations of the Senate
2 and the House of Representatives a report that describes
3 in detail the actions taken in the preceding year with
4 amounts transferred under this section.

5 (RESCISSION)

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

10 (RESCISSION)

11 SEC. 4127. From unobligated balances of prior year
12 appropriations made available for “United States Coast
13 Guard—Acquisition, Construction, and Improvements” in
14 chapter 4 of title I of division B of Public Law 109–148,
15 \$3,000,000 is rescinded.

16 (RESCISSION)

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

22 (RESCISSION)

23 SEC. 4129. From unobligated balances of prior year
24 appropriations made available for “Federal Emergency
25 Management Agency—Administrative and Regional Oper-

1 ations” in chapter 4 of title II of Public Law 109–234,
2 \$36,000,000 is rescinded.

3 (RESCISSION)

4 SEC. 4130. From unobligated balances of prior year
5 appropriations made available for “Domestic Nuclear De-
6 tecton Office—Research, Development, and Operations”
7 in chapter 5 of title III of Public Law 110–28, \$3,800,000
8 is rescinded.

9 (RESCISSION)

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

16 SEC. 4132. Notwithstanding any other provision of
17 law, including any agreement, the Federal share of assist-
18 ance, including direct Federal assistance provided under
19 sections 403, 406, and 407 of the Robert T. Stafford Dis-
20 aster Relief and Emergency Assistance Act (42 U.S.C.
21 5170b, 5172, and 5173), for damages resulting from
22 FEMA–1909–DR, FEMA–1894–DR, and FEMA–3311–
23 EM–RI shall not be less than 90 percent of the eligible
24 costs under such sections.

1 (RESCISSION)

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

6 (RESCISSION)

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

10 (RESCISSION)

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

14 (RESCISSION)

15 SEC. 4136. Of the funds made available for “United
16 States Geological Survey—Surveys, Investigations, and
17 Research” in title VII of division A of Public Law 111-
18 5, \$5,000,000 is rescinded.

19 (RESCISSION)

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

23 (RESCISSION)

24 SEC. 4138. Of the funds made available for “Bureau
25 of Indian Affairs—Indian Guaranteed Loan Program Ac-

1 count” in title VII of division A of Public Law 111–5,
2 \$6,820,000 is rescinded.

3 (RESCISSION)

4 SEC. 4139. Of the funds made available for “Envi-
5 ronmental Protection Agency—Hazardous Substance
6 Superfund” in title VII of division A of Public Law 111–
7 5, \$6,000,000 is rescinded.

8 (RESCISSION)

9 SEC. 4140. Of the funds made available for “Envi-
10 ronmental Protection Agency—Leaking Underground
11 Storage Tank Trust Fund Program” in title VII of divi-
12 sion A of Public Law 111–5, \$9,200,000 is rescinded.

13 (RESCISSION)

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

18 (RESCISSION)

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

23 (RESCISSION)

24 SEC. 4143. Of the funds transferred in section 703
25 of title VII of division A of Public Law 111–5, “Depart-

1 ment of the Interior—Working Capital Fund”,
2 \$4,400,000 is permanently rescinded.

3 (RESCISSION)

4 SEC. 4144. Of the funds made available for “National
5 Park Service—Construction” in chapter 5 of title II of
6 Public Law 105–18, \$7,600,000 is rescinded.

7 (RESCISSION)

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

11 (RESCISSION)

12 SEC. 4146. Of the funds made available for “National
13 Park Service—Construction” in chapter 5 of title II of
14 Public Law 109–234, \$6,700,000 is rescinded.

15 (RESCISSION)

16 SEC. 4147. Of the funds made available for “Fish
17 and Wildlife Service—Construction” in chapter 6 of title
18 I of division B of Public Law 110–329, \$13,300,000 is
19 rescinded.

20 SEC. 4148. Section 11(c)(1) of the Outer Continental
21 Shelf Lands Act (43 U.S.C. 1340(c)(1)) is amended in
22 the fourth sentence by striking “within thirty days of its
23 submission,” and inserting the following: “within 90 days
24 of its submission or within such additional time as the
25 Secretary determines is necessary to complete any envi-
26 ronmental, safety, or other reviews (in the case of leases

1 SEC. 4151. Amounts in section 1012 of division B
2 of Public Law 111–118 shall be deemed to have been des-
3 ignated by such section on the date of its enactment as
4 an emergency requirement and necessary to meet emer-
5 gency needs pursuant to sections 403 and 423(b) of S.
6 Con. Res. 13 (111th Congress), the concurrent resolution
7 on the budget for fiscal year 2010.

8 SEC. 4152. (a) OIL SPILL UNEMPLOYMENT ASSIST-
9 ANCE.—Upon a determination by the President that addi-
10 tional resources are necessary to respond to an incident
11 related to a spill of national significance declared under
12 the National Contingency Plan provided for under section
13 105 of the Comprehensive Environmental Response, Com-
14 pensation, and Liability Act of 1980 (42 U.S.C. 9605)
15 (“covered incident”), the Secretary of Labor is authorized
16 to provide to any individual unemployed as a result of such
17 covered incident such benefit assistance as the Secretary
18 deems appropriate while such individual is unemployed for
19 the weeks of such unemployment with respect to which
20 the individual is not entitled to any other unemployment
21 compensation (as that term is defined in section 85(b) of
22 the Internal Revenue Code of 1986) or waiting period
23 credit. Such assistance as the Secretary shall provide shall
24 be available to an individual as long as the individual’s
25 unemployment caused by such covered incident continues

1 or until the individual is reemployed in a suitable position,
2 but no longer than 26 weeks after the individual's unem-
3 ployment that resulted from the covered incident. Oil spill
4 unemployment assistance payments for a week of unem-
5 ployment shall not exceed the maximum weekly amount
6 authorized under the unemployment compensation law of
7 the individual's State. The Secretary is directed to provide
8 such assistance through agreements with States that, in
9 the Secretary's judgment, have an adequate system for ad-
10 ministering such assistance through existing State agen-
11 cies.

12 (b) FEDERAL-STATE AGREEMENTS.—Any State af-
13 fected by a covered incident may enter into and participate
14 in an agreement under this section with the Secretary.
15 Any State which is a party to an agreement under this
16 section may, upon providing 30 days' written notice to the
17 Secretary, terminate such agreement.

18 (c) PROVISIONS OF AGREEMENT.—Any agreement
19 under subsection (b) shall provide that the State agency
20 of the State will—

21 (1) make payments of oil spill unemployment
22 assistance to individuals who—

23 (A) are unemployed as a result of a cov-
24 ered incident;

1 (B) have no rights to regular compensation
2 or extended compensation with respect to a
3 week under State law or any other State unem-
4 ployment compensation law or to compensation
5 under any other Federal law; and

6 (C) are not receiving compensation with
7 respect to such week under the unemployment
8 compensation law of Canada; and

9 (2) refer individuals receiving oil spill unem-
10 ployment assistance under this section to one-stop
11 delivery systems established under section 134(e) of
12 the Workforce Investment Act of 1998 for reemploy-
13 ment services or training provided under such Act,
14 the Wagner-Peyser Act, or other Federal law.

15 (d) WEEKLY BENEFIT AMOUNT, DUE PROCESS
16 RIGHTS.—For purposes of any agreement under this sec-
17 tion, the terms and conditions of Federal law and regula-
18 tions which apply to claims for disaster unemployment as-
19 sistance and to the payment thereof shall apply to claims
20 for oil spill unemployment assistance and the payment
21 thereof, except where otherwise inconsistent with the pro-
22 visions of this section or with the regulations or operating
23 instructions of the Secretary promulgated to carry out this
24 section.

1 (e) UNAUTHORIZED ALIENS INELIGIBLE.—A State
2 shall require as a condition of oil spill unemployment as-
3 sistance under this section that each alien who receives
4 such assistance must be legally authorized to work in the
5 United States, as defined for purposes of the Federal Un-
6 employment Tax Act (26 U.S.C. 3101 et seq.). In deter-
7 mining whether an alien meets the requirements of this
8 subsection, a State must follow the procedures provided
9 in section 1137(d) of the Social Security Act (42 U.S.C.
10 1320b–7(d)).

11 (f) FRAUD AND OVERPAYMENTS.—

12 (1) IN GENERAL.—If an individual knowingly
13 has made, or caused to be made by another, a false
14 statement or representation of a material fact, or
15 knowingly has failed, or caused another to fail, to
16 disclose a material fact, and as a result of such false
17 statement or representation or of such nondisclosure
18 such individual has received an amount of oil spill
19 unemployment assistance under this section to which
20 such individual was not entitled, such individual—

21 (A) shall be ineligible for further oil spill
22 unemployment assistance under this section in
23 accordance with the provisions of the applicable
24 State unemployment compensation law relating

1 to fraud in connection with a claim for unem-
2 ployment compensation; and

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

5 (2) REPAYMENT.—In the case of an individual
6 who has received oil spill unemployment assistance
7 under this section to which such individual was not
8 entitled, the State shall require such individual to
9 repay the amount of such oil spill unemployment as-
10 sistance to the State agency, except that the State
11 agency may waive such repayment if it determines
12 that—

13 (A) the payment of such oil spill unemploy-
14 ment assistance was without fault on the part
15 of any such individual; and

16 (B) such repayment would be contrary to
17 equity and good conscience.

18 (3) PREVENTION AND DETECTION BY STATE
19 AGENCY.—The State agency shall submit a weekly
20 payment file of all benefit payments to the National
21 Directory of New Hires, and shall make arrange-
22 ments for the cross match of the benefit payment re-
23 cipients' social security numbers with the National
24 Directory of New Hires Reported Hire and Benefit

1 payment databases a minimum of once each week
2 and investigate all matches.

3 (4) RECOVERY BY STATE AGENCY.—

4 (A) IN GENERAL.—The State agency may
5 recover the amount to be repaid, or any part
6 thereof, by deductions from any oil spill unem-
7 ployment assistance payable to such individual
8 under this section or from any unemployment
9 compensation payable to such individual under
10 any State or Federal unemployment compensa-
11 tion law administered by the State agency or
12 under any other State or Federal law adminis-
13 tered by the State agency which provides for
14 the payment of any assistance or allowance with
15 respect to any week of unemployment, during
16 the 3-year period after the date such individual
17 received the payment of the oil spill unemploy-
18 ment assistance to which such individual was
19 not entitled, except that no single deduction
20 may exceed 50 percent of the weekly benefit
21 amount from which such deduction is made.

22 (B) OPPORTUNITY FOR HEARING.—No re-
23 payment shall be required, and no deduction
24 shall be made, until a determination has been
25 made, notice thereof and an opportunity for a

1 fair hearing has been given to the individual,
2 and the determination has become final.

3 (5) REVIEW.—Any determination by a State
4 agency under this subsection shall be subject to re-
5 view in the same manner and to the same extent as
6 determinations under the State unemployment com-
7 pensation law, and only in that manner and to that
8 extent.

9 (g) PAYMENTS TO STATES.—

10 (1) BENEFITS.—There shall be paid to each
11 State that has entered into an agreement under this
12 section an amount equal to 100 percent of the oil
13 spill unemployment assistance paid to individuals by
14 the State under such agreement.

15 (2) ADMINISTRATION.—There shall be paid to
16 each State that has entered into an agreement under
17 this section such amounts as the Secretary deter-
18 mines necessary for the proper and efficient admin-
19 istration of such agreement.

20 (h) FINANCING.—

21 (1) IN GENERAL.—There are appropriated out
22 of the general fund of the United States Treasury
23 such funds as may be necessary in meeting the costs
24 of benefits, Federal administration, and State ad-
25 ministration of agreements under this section.

1 (2) CERTIFICATION.—The Secretary shall from
2 time to time certify to the Secretary of the Treasury
3 for payment to each State the sums payable to such
4 State under this section. Upon receipt of the certifi-
5 cation from the Secretary, the Secretary of the
6 Treasury shall make payments to the State in ac-
7 cordance with such certification, by transfers from
8 the general fund of the United States Treasury.

9 (i) RELATIONSHIP WITH INCOME REPLACEMENT
10 PAYMENTS FOR LOST WAGES OR SELF EMPLOYMENT IN-
11 COME BY THE RESPONSIBLE PARTY.—

12 (1) The total combined amount an individual
13 receives of oil spill unemployment assistance and
14 payments by the responsible party for either lost
15 wages or self-employment income shall not exceed
16 the greater of—

17 (A) the total amount of unemployment as-
18 sistance that an individual is entitled to receive
19 under subsection (a), as determined by the
20 State agency; or

21 (B) the liability of the responsible party to
22 such individual for lost wages or self-employ-
23 ment income.

24 (2) If a responsible party or the Oil Spill Liabil-
25 ity Trust Fund under the Oil Pollution Act of 1990

1 (33 U.S.C. 2701 et seq.) makes a payment to the in-
2 dividual for lost wages related to unemployment re-
3 sulting from a covered incident, and an individual
4 has previously received unemployment assistance
5 under this section for such period of unemployment,
6 the responsible party or the Oil Spill Liability Trust
7 Fund shall subtract from such payment the amount
8 of such unemployment assistance and shall reim-
9 burse such subtracted amount to the United States
10 for deposit in the general fund of the Treasury. If
11 a responsible party fails to reimburse such sub-
12 tracted amount pursuant to this paragraph, the Sec-
13 retary of the Treasury shall request the Attorney
14 General to bring a civil action against the respon-
15 sible party or a guarantor in an appropriate district
16 court to recover the amount of the demand, plus all
17 costs incurred in obtaining payment including pre-
18 judgment interest, attorneys fees, and any other ad-
19 ministrative and adjudicative costs involved.

20 (3) If a responsible party or the Oil Spill Liabil-
21 ity Trust Fund has made a payment to an individual
22 for lost wages related to unemployment resulting
23 from a covered incident, the amount of such pay-
24 ment shall be subtracted from the unemployment as-

1 sistance under this section that the individual subse-
2 quently receives for such period of unemployment.

3 (4) Any individual's receipt of unemployment
4 assistance under this section related to unemploy-
5 ment resulting from a covered incident shall be con-
6 ditional on the individual taking appropriate actions,
7 as determined by the Secretary, to seek payment for
8 lost wages for such period of unemployment under
9 the Oil Pollution Act of 1990 (33 U.S.C. 2701 et
10 seq.) from the responsible party or the Oil Spill Li-
11 ability Trust Fund.

12 (5) Any individual, as a condition of receiving
13 oil spill unemployment assistance, shall provide in-
14 formed consent to the sharing of benefit information
15 between the State agency and the responsible party
16 (or its claim processor) or the Oil Spill Liability
17 Trust Fund, as appropriate, for the purpose of de-
18 termining eligibility and to avoid duplicate payments
19 as deemed necessary.

20 (6) If the Secretary determines the actions de-
21 scribed in paragraphs (2) through (5) have not suc-
22 ceeded in avoiding duplicate payments, the Secretary
23 may take such other actions as the Secretary deter-
24 mines necessary in order to avoid duplicate pay-
25 ments, consistent with the responsible party or the

1 Oil Spill Liability Trust Fund making payments to
2 individuals for lost wages related to unemployment
3 resulting from a covered incident.

4 (7) The Secretary may take such actions as the
5 Secretary determines are necessary for implementing
6 this section, including entering into agreements with
7 States that have agreements with the Secretary to
8 administer this program, and the responsible party
9 with respect to each State's administration of this
10 program and payments made by the responsible
11 party to claimants for lost wages and self-employ-
12 ment income to establish processes for—

13 (A) the coordination of payment of oil spill
14 unemployment assistance under this section and
15 payments for lost wages and self employment
16 income by the responsible party or the Oil Spill
17 Liability Trust Fund so as to minimize dupli-
18 cate payments to claimants, including methods
19 to—

20 (i) prevent duplicate payments, such
21 as developing methods for claims proc-
22 essing that identify eligibility for both
23 types of payments so as to ensure the indi-
24 vidual receives no more than the amount

1 specified in paragraph (1) of this sub-
2 section;

3 (ii) document that individuals who re-
4 ceived either oil spill unemployment assist-
5 ance or payments by the responsible party
6 or the Oil Spill Liability Trust Fund prior
7 to execution of the agreement were unem-
8 ployed as a result of the oil spill; and

9 (iii) ensure prompt and accurate pay-
10 ment of oil spill unemployment assistance
11 under this section or payment of claims by
12 the responsible party or the Oil Spill Li-
13 ability Trust Fund;

14 (B) sharing and protecting information re-
15 garding an individual's claim for oil spill unem-
16 ployment assistance or claims for replacement
17 of wages that is necessary to coordinate benefit
18 payments and claims by the responsible party
19 or the Oil Spill Liability Trust Fund under sub-
20 paragraph (A);

21 (C) reimbursement by the responsible
22 party to the Federal Government and States for
23 payment of oil spill unemployment assistance to
24 individuals whose unemployment was the result
25 of a covered incident and for the administration

1 of this program, which may include the respon-
2 sible party developing a special fund for use by
3 the States to pay benefits under this program,
4 in accordance with the process developed under
5 subparagraph (A) with a periodic reconciliation
6 process to make future claims unnecessary;

7 (D) ensuring that the responsible party
8 shall make benefit information available to gov-
9 ernment organizations upon request, subject to
10 the safeguards applicable to confidential unem-
11 ployment compensation information in Federal
12 law and regulations, which shall apply to the
13 Secretary, the State agencies administering the
14 oil spill unemployment assistance program, the
15 responsible party, and the Oil Spill Liability
16 Trust Fund; and

17 (E) developing similar agreements with the
18 responsible party to coordinate payments of un-
19 employment compensation under State law re-
20 lated to a covered incident and payments made
21 by the responsible party or the Oil Spill Liabil-
22 ity Trust Fund.

23 (8) The procedures developed under this section
24 may be employed by States to coordinate payments
25 of unemployment compensation under State law re-

1 lated to a covered incident and payments made by
2 the responsible party or the Oil Spill Liability Trust
3 Fund.

4 (j) **LIABILITY OF RESPONSIBLE PARTIES.**—Each re-
5 sponsible party under the Oil Pollution Act of 1990 (33
6 U.S.C. 2701 et seq.) is liable for any costs, net of any
7 payments by the responsible party to the United States
8 under subsection (i), incurred by the United States under
9 this section and shall, upon the demand of the Secretary
10 of the Treasury, reimburse the general fund of the Treas-
11 ury for these costs as well as the costs of the United States
12 in administering its responsibilities under this section. If
13 a responsible party fails to pay a demand of the Secretary
14 of the Treasury pursuant to this subsection, the Secretary
15 shall request the Attorney General to bring a civil action
16 against the responsible party or a guarantor in an appro-
17 priate district court to recover the amount of the demand,
18 plus all costs incurred in obtaining payment including pre-
19 judgment interest, attorneys fees, and any other adminis-
20 trative and adjudicative costs involved. Such reimburse-
21 ment shall be without regard to limits of liability under
22 section 1004 of the Oil Pollution Act of 1990 (33 U.S.C.
23 2704).

24 (k) **EFFECTIVE DATE.**—This section shall take effect
25 immediately upon enactment of this Act and shall apply

1 to all responsible parties under the Oil Pollution Act of
2 1990 (33 U.S.C. 2701 et seq.), including any party deter-
3 mined to be liable under such Act for any incident that
4 occurred prior to the enactment of this section.

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

6 (1) DUPLICATE PAYMENTS.—The term “dupli-
7 cate payments” includes any payment that would
8 cause the individual to receive payments in excess of
9 the amount determined under paragraph (1) of sub-
10 section (i).

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

13 (3) SECRETARY.—The term “Secretary” means
14 the Secretary of Labor.

15 (4) STATE.—The term “State” means any
16 State, as such term is defined in section 3306(j)(1)
17 of the Federal Unemployment Tax Act (26 U.S.C.
18 3306(j)(1)).

19 (5) STATE AGENCY.—The term “State agency”
20 means the State agency which administers the un-
21 employment compensation law of the State approved
22 by the Secretary of Labor under section 3304 of the
23 Internal Revenue Code of 1986.

1 SEC. 4153. (a) IN GENERAL.—Section 173(a) of the
2 Workforce Investment Act of 1998 (29 U.S.C. 2918(a))
3 is amended—

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

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

8 (3) by adding at the end the following new
9 paragraph:

10 “(5) to provide assistance to the Governor of
11 any State within the boundaries of an area that is
12 the subject of a Presidential determination that ad-
13 ditional resources are necessary to respond to an in-
14 cident related to a spill of national significance de-
15 clared under the National Contingency Plan pro-
16 vided for under section 105 of the Comprehensive
17 Environmental Response, Compensation, and Liabil-
18 ity Act of 1980 (42 U.S.C. 9605) (‘covered inci-
19 dent’) to provide oil spill relief employment in the
20 area.”.

21 (b) OIL SPILL RELIEF EMPLOYMENT ASSISTANCE
22 REQUIREMENTS.—Section 173 of the Workforce Invest-
23 ment Act of 1998 (29 U.S.C. 2918) is amended by adding
24 at the end the following new subsection:

1 “(h) OIL SPILL RELIEF EMPLOYMENT ASSISTANCE
2 REQUIREMENTS.—

3 “(1) IN GENERAL.—Funds made available
4 under subsection (a)(5)—

5 “(A) shall be used to provide oil spill relief
6 employment on projects involving the cleaning,
7 restoration, renovation, repair and reconstruc-
8 tion of lands, marshes, waters, structures, and
9 facilities located within the area of the covered
10 incident, as well as offshore areas related to
11 such incident, and projects that provide food,
12 clothing, shelter, and other humanitarian assist-
13 ance to individuals harmed by the covered inci-
14 dent;

15 “(B) may be expended through public and
16 private agencies and organizations engaged in
17 such projects;

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

20 “(D) may be expended to provide personal
21 protective equipment to workers engaged in oil
22 spill relief employment described in subpara-
23 graph (A);

24 “(E) may be used to increase the capacity
25 of States to make available the full range of

1 services authorized under this title and provide
2 information (in languages appropriate to the in-
3 dividuals served) about, and access to, the vari-
4 ety of public and private services available to
5 individuals adversely affected by the covered in-
6 cident in One-Stop Career Centers and other
7 access points (including other public facilities,
8 mobile service delivery units, and social services
9 offices); and

10 “(F) may be used to provide temporary
11 employment by public sector entities for a pe-
12 riod not to exceed 6 months, in addition to the
13 oil spill relief employment described in subpara-
14 graph (A).

15 “(2) ELIGIBILITY.—An individual shall be eligi-
16 ble for services under subsection (a)(5) if such indi-
17 vidual is temporarily or permanently laid off as a
18 consequence of the covered incident described in
19 such subsection, is a dislocated worker, is a long-
20 term unemployed individual, or meets such other cri-
21 teria as the Secretary may establish.

22 “(3) LIMITATIONS ON OIL SPILL RELIEF EM-
23 PLOYMENT ASSISTANCE.—No individual shall be em-
24 ployed under subsection (a)(5) for more than 6
25 months for oil spill relief employment related to re-

1 covery from a single covered incident. The Secretary
2 may, upon reviewing a State's request, extend such
3 employment related to recovery from a single cov-
4 ered incident for up to an additional 6 months.

5 “(4) REIMBURSEMENT.—Each responsible
6 party under the Oil Pollution Act of 1990 (33
7 U.S.C. 2701 et seq.) is liable for any costs incurred
8 by the United States under this subsection or sub-
9 section (a)(5) and shall, upon the demand of the
10 Secretary of the Treasury, reimburse the general
11 fund of the Treasury for the costs incurred under
12 this subsection or subsection (a)(5) as well as the
13 costs of the United States in administering its re-
14 sponsibilities under this subsection or subsection
15 (a)(5). If a responsible party fails to pay a demand
16 of the Secretary of the Treasury pursuant to this
17 subsection or subsection (a)(5), the Secretary shall
18 request the Attorney General to bring a civil action
19 against the responsible party or a guarantor in an
20 appropriate district court to recover the amount of
21 the demand, plus all costs incurred in obtaining pay-
22 ment including prejudgment interest, attorney's fees,
23 and any other administrative and adjudicative costs
24 involved. Such reimbursement shall be without re-

1 gard to limits of liability under section 1004 of the
2 Oil Pollution Act of 1990 (33 U.S.C. 2704).

3 “(5) USE OF AVAILABLE FUNDS.—Funds ap-
4 propriated for fiscal years 2009 and 2010 and re-
5 maining available for obligation by the Secretary to
6 provide any assistance authorized under this section
7 shall be available to assist workers affected by a cov-
8 ered incident, including workers who have relocated
9 from areas in which a covered incident has been de-
10 clared. Under such conditions as the Secretary may
11 approve, any State may use funds that remain avail-
12 able for expenditure under any grants awarded to
13 the State under this section to provide any assist-
14 ance authorized under this subsection. Funds used
15 pursuant to the authority provided under this para-
16 graph shall be subject to the reimbursement require-
17 ments described in paragraph (4).

18 “(6) REQUIREMENTS FOR GRANT APPLICA-
19 TIONS.—An application submitted to the Secretary
20 under this subsection shall include a detailed de-
21 scription of—

22 “(A) how the State will ensure the capacity
23 of One-Stop Career Centers and other access
24 points to—

1 “(i) provide affected individuals with
2 information, in languages appropriate to
3 the individuals served, about the range of
4 available services; and

5 “(ii) provide affected individuals with
6 access to the range of needed services;

7 “(B) how the State will prioritize individ-
8 uals who are temporarily or permanently laid
9 off as a consequence of the covered incident in
10 the assignment of temporary employment posi-
11 tions; and

12 “(C) any other supporting information the
13 Secretary may require.”.

14 (c) EFFECTIVE DATE.—This section, and the amend-
15 ments made by this section, shall take effect immediately
16 upon enactment of this Act and shall apply to all respon-
17 sible parties under the Oil Pollution Act of 1990 (33
18 U.S.C. 2701 et seq.), including any party determined to
19 be liable under such Act for any incident that occurred
20 prior to the enactment of this Act.

21 (d) APPROPRIATION.—There is appropriated
22 \$50,000,000 for an additional amount for “Department
23 of Labor—Employment and Training Administration—
24 Training and Employment Services”, to carry out section
25 173(a)(5) and (h) of the Workforce Investment Act of

1 1998 (29 U.S.C. 2918(a)(5) and (h)) (“WIA”) as amended
2 by this Act, to remain available through June 30, 2011:
3 *Provided*, That funding shall be available upon enactment
4 of this Act, notwithstanding section 189(g)(1) of WIA.

5 SEC. 4154. (a) The Secretary of Labor may reserve
6 not more than 1 percent of the funds available to carry
7 out section 4152 of this Act and section 173(h) of the
8 Workforce Investment Act of 1998 (as added by section
9 4153 of this Act) for transfer to appropriate Department
10 of Labor accounts for program administration and sup-
11 port activities in the Department of Labor associated with
12 such sections, and for the increased worker protection and
13 workplace benefit activities and oversight and coordination
14 activities in connection with the application of laws and
15 regulations associated with the Department’s response to
16 spills of national significance declared under the National
17 Contingency Plan provided for under section 105 of the
18 Comprehensive Environmental Response, Compensation,
19 and Liability Act of 1980 (42 U.S.C. 9605).

20 (b) A responsible party under the Oil Pollution Act
21 of 1990 (33 U.S.C. 2701 et seq.) shall, upon the demand
22 of the Secretary of the Treasury, reimburse the general
23 fund of the Treasury for all or a portion of the additional
24 amount appropriated herein, as determined by the Sec-
25 retary of the Treasury.

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

12 (d) This section shall take effect immediately upon
13 enactment of this Act and shall apply to all responsible
14 parties under the Oil Pollution Act of 1990, including any
15 party determined to be liable under such Act for any inci-
16 dent that occurred prior to the enactment of this Act.

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

22 (RESCISSION)

23 SEC. 4155. Of the unobligated balance of funds ap-
24 propriated without fiscal year limitation under the heading
25 “Department of Health and Human Services—Office of
26 the Secretary—Public Health and Social Services Emer-

1 gency Fund” in fiscal years 2006 through 2010 to prepare
2 for and respond to an influenza pandemic (including any
3 amount not yet designated by the President as emergency
4 funds) and the unobligated balance of funds transferred
5 to “Public Health and Social Services Emergency Fund”
6 pursuant to the fourth paragraph under such heading in
7 Public Law 111–117, \$2,000,000,000 is rescinded: *Pro-*
8 *vided*, That the Secretary of Health and Human Services,
9 in consultation with the Director of the Office of Manage-
10 ment and Budget, shall determine the amount to be re-
11 scinded from each appropriation and shall transmit a writ-
12 ten notice of such determination to the Committees on Ap-
13 propriations of the House of Representatives and the Sen-
14 ate not later than 30 days after enactment of this Act:
15 *Provided further*, That section 3002 shall not apply to
16 \$500,000,000 of the amount in this section.

17 (RESCISSION)

18 SEC. 4156. Of the funds appropriated for “Depart-
19 ment of Education—Innovation and Improvement” in di-
20 vision D of Public Law 111–117 (123 Stat. 3263),
21 \$100,000,000 is rescinded, to be derived only from the
22 amount available for grants authorized under subpart I
23 of part B of title V of the Elementary and Secondary Edu-
24 cation Act of 1965: *Provided*, That section 3002 shall not
25 apply to the amount in this section.

1 (RESCISSION)

2 SEC. 4157. Of the funds appropriated for “Depart-
3 ment of Education—Innovation and Improvement” in di-
4 vision A of Public Law 111–5 (123 Stat. 182) and division
5 D of Public Law 111–117 (123 Stat. 3263),
6 \$200,000,000 is rescinded, to be derived only from
7 amounts available for the Teacher Incentive Fund: *Pro-*
8 *vided*, That section 3002 shall not apply to \$100,000,000
9 of the amount in this section.

10 (RESCISSION)

11 SEC. 4158. Of the funds appropriated for “Depart-
12 ment of Education—State Fiscal Stabilization Fund” in
13 title XIV of division A of the American Recovery and Re-
14 investment Act of 2009 (Public Law 111–5; 123 Stat.
15 279), \$500,000,000 is rescinded, to be derived only from
16 the amount made available for grants under section 14006
17 of such title and through a corresponding reduction in the
18 total amount reserved under section 14001(c) of such title
19 for grants under such section 14006.

20 SEC. 4159. Amounts appropriated to the Architect of
21 the Capitol in the Legislative Branch Appropriations Act,
22 2006 (Public Law 109–55) under the heading “Architect
23 of the Capitol—Capitol Police Building and Grounds” and
24 that remain available until September 30, 2010, and
25 amounts appropriated to the Architect of the Capitol in
26 the Legislative Branch Appropriations Act, 2010 (Public

1 Law 111–68) under the heading “Architect of the Cap-
2 itol—Capitol Police Buildings, Grounds and Security” and
3 that remain available until September 30, 2014, shall be
4 available to the Architect of the Capitol for the purchase
5 of real property (including any buildings or facilities) for
6 the use of the Capitol Police.

7 SEC. 4160. (a) TERMINATION OF OEPPPO.—Section
8 905 of the Emergency Supplemental Act, 2002 (2 U.S.C.
9 130i) is repealed.

10 (b) TRANSFER TO SERGEANT AT ARMS.—The func-
11 tions and responsibilities of the Office of Emergency Plan-
12 ning, Preparedness, and Operations under section 905 of
13 the Emergency Supplemental Act, 2002 (2 U.S.C. 130i)
14 (as in effect on the day before the date referred to in sub-
15 section (c)) shall be transferred and assigned to the Ser-
16 geant at Arms of the House of Representatives.

17 (c) EFFECTIVE DATE.—This section and the amend-
18 ment made by this section shall take effect February 1,
19 2010.

20 (RESCISSION)

21 SEC. 4161. Of the unobligated balances available to
22 the Architect of the Capitol from prior year appropriations
23 for the Capitol Visitor Center project, \$5,000,000 is re-
24 scinded: *Provided*, That section 3002 shall not apply to
25 the amount in this section.

1 (RESCISSION)

2 SEC. 4162. Of the unobligated balances available
3 under “Department of Defense, Military Construction,
4 Army” from prior appropriations Acts, \$340,000,000 is
5 rescinded: *Provided*, That no funds may be rescinded from
6 amounts that were designated by the Congress as an
7 emergency requirement or as appropriations for overseas
8 deployments and other activities pursuant to a concurrent
9 resolution on the budget or the Balanced Budget and
10 Emergency Deficit Control Act of 1985: *Provided further*,
11 That section 3002 shall not apply to the amount in this
12 section.

13 (RESCISSION)

14 SEC. 4163. Of the unobligated balances available
15 under “Department of Defense, Military Construction,
16 Navy and Marine Corps” from prior appropriations Acts,
17 \$110,000,000 is rescinded: *Provided*, That no funds may
18 be rescinded from amounts that were designated by the
19 Congress as an emergency requirement or as appropria-
20 tions for overseas deployments and other activities pursu-
21 ant to a concurrent resolution on the budget or the Bal-
22 anced Budget and Emergency Deficit Control Act of 1985:
23 *Provided further*, That section 3002 shall not apply to the
24 amount in this section.

1 (RESCISSION)

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

13 (RESCISSION)

14 SEC. 4165. Of the funds made available for the Gen-
15 eral Operating Expenses account of the Department of
16 Veterans Affairs in section 2201(e)(4)(A)(ii) of division B
17 of Public Law 111–5 (123 Stat. 454; 26 U.S.C. 6428
18 note), \$6,100,000 is rescinded.

19 SEC. 4166. None of the funds appropriated or other-
20 wise made available by this Act may be obligated by any
21 covered executive agency in contravention of the certifi-
22 cation requirement of section 6(b) of the Iran Sanctions
23 Act of 1996, as included in the revisions to the Federal
24 Acquisition Regulation pursuant to such section.

1 (RESCISSIONS)

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

9 (b) CIVILIAN STABILIZATION INITIATIVE.—

10 (1) DEPARTMENT OF STATE.—Of the unobli-
11 gated balances available under the heading “Depart-
12 ment of State—Administration of Foreign Affairs—
13 Civilian Stabilization Initiative” in prior Acts mak-
14 ing appropriations for the Department of State, for-
15 eign operations, and related programs, \$40,000,000
16 is rescinded.

17 (2) UNITED STATES AGENCY FOR INTER-
18 NATIONAL DEVELOPMENT.—Of the unobligated bal-
19 ances available under the heading “United States
20 Agency for International Development—Funds Ap-
21 propriated to the President—Civilian Stabilization
22 Initiative” in prior Acts making appropriations for
23 the Department of State, foreign operations, and re-
24 lated programs, \$30,000,000 is rescinded.

1 (c) Section 3002 shall not apply to the amounts in
2 this section.

3 (RESCISSION)

4 SEC. 4168. Of the unobligated balances available
5 under the heading “Capital Investment Fund” in title XI
6 of division A of Public Law 111-5, \$40,000,000 is re-
7 scinded.

8 (RESCISSION)

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

15 (RESCISSIONS)

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

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

23 (2) “Department of Transportation—Federal
24 Aviation Administration—Facilities and Equip-
25 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”, \$311,602,923, to
6 be 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
10 Administration—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.
13 3091) is amended by striking “\$15,000,000,000” and in-
14 serting “\$20,000,000,000”: *Provided*, That section 3002
15 shall not apply to the amount in this section.

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

20 (RESCISSION)

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

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

16 (RESCISSION)

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

1 shall be presumed to have anticompetitive ef-
2 fects and be unlawful if—

3 “(i) an ANDA filer receives anything
4 of value; and

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

9 “(B) EXCEPTION.—The presumption in
10 subparagraph (A) shall not apply if the parties
11 to such agreement demonstrate by clear and
12 convincing evidence that the procompetitive
13 benefits of the agreement outweigh the anti-
14 competitive effects of the agreement.

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

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

21 “(2) the value to consumers of the competition
22 from the ANDA product allowed under the agree-
23 ment;

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

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

6 “(5) the reduction in the NDA holder’s reve-
7 nues if it had lost the patent litigation;

8 “(6) the time period between the date of the
9 agreement conveying value to the ANDA filer and
10 the date of the settlement of the patent infringement
11 claim; and

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

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

18 “(1) that entry would not have occurred until
19 the expiration of the relevant patent or statutory ex-
20 clusivity; or

21 “(2) that the agreement’s provision for entry of
22 the ANDA product prior to the expiration of the rel-
23 evant patent or statutory exclusivity means that the
24 agreement is pro-competitive, although such evidence

1 may be relevant to the fact finder’s determination
2 under this section.

3 “(d) EXCLUSIONS.—Nothing in this section shall pro-
4 hibit a resolution or settlement of a patent infringement
5 claim in which the consideration granted by the NDA
6 holder to the ANDA filer as part of the resolution or set-
7 tlement includes only one or more of the following:

8 “(1) The right to market the ANDA product in
9 the United States prior to the expiration of—

10 “(A) any patent that is the basis for the
11 patent infringement claim; or

12 “(B) any patent right or other statutory
13 exclusivity that would prevent the marketing of
14 such drug.

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

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

19 “(e) REGULATIONS AND ENFORCEMENT.—

20 “(1) REGULATIONS.—The Federal Trade Com-
21 mission may issue, in accordance with section 553 of
22 title 5, United States Code, regulations imple-
23 menting and interpreting this section. These regula-
24 tions may exempt certain types of agreements de-
25 scribed in subsection (a) if the Commission deter-

1 mines such agreements will further market competi-
2 tion and benefit consumers. Judicial review of any
3 such regulation shall be in the United States Dis-
4 trict Court for the District of Columbia pursuant to
5 section 706 of title 5, United States Code.

6 “(2) ENFORCEMENT.—A violation of this sec-
7 tion shall be treated as a violation of section 5.

8 “(3) JUDICIAL REVIEW.—Any person, partner-
9 ship or corporation that is subject to a final order
10 of the Commission, issued in an administrative adju-
11 dicative proceeding under the authority of subsection
12 (a)(1), may, within 30 days of the issuance of such
13 order, petition for review of such order in the United
14 States Court of Appeals for the District of Columbia
15 Circuit or the United States Court of Appeals for
16 the circuit in which the ultimate parent entity, as
17 defined at 16 C.F.R. 801.1(a)(3), of the NDA hold-
18 er is incorporated as of the date that the NDA is
19 filed with the Secretary of the Food and Drug Ad-
20 ministration, or the United States Court of Appeals
21 for the circuit in which the ultimate parent entity of
22 the ANDA filer is incorporated as of the date that
23 the ANDA is filed with the Secretary of the Food
24 and Drug Administration. In such a review pro-

1 ceeding, the findings of the Commission as to the
2 facts, if supported by evidence, shall be conclusive.

3 “(f) ANTITRUST LAWS.—Nothing in this section shall
4 be construed to modify, impair, or supersede the applica-
5 bility of the antitrust laws as defined in subsection (a)
6 of the first section of the Clayton Act (15 U.S.C. 12(a))
7 and of section 5 of this Act to the extent that section 5
8 applies to unfair methods of competition. Nothing in this
9 section shall modify, impair, limit or supersede the right
10 of an ANDA filer to assert claims or counterclaims against
11 any person, under the antitrust laws or other laws relating
12 to unfair competition.

13 “(g) PENALTIES.—

14 “(1) FORFEITURE.—Each person, partnership
15 or corporation that violates or assists in the violation
16 of this section shall forfeit and pay to the United
17 States a civil penalty sufficient to deter violations of
18 this section, but in no event greater than 3 times the
19 value received by the party that is reasonably attrib-
20 utable to a violation of this section. If no such value
21 has been received by the NDA holder, the penalty to
22 the NDA holder shall be shall be sufficient to deter
23 violations, but in no event greater than 3 times the
24 value given to the ANDA filer reasonably attrib-
25 utable to the violation of this section. Such penalty

1 shall accrue to the United States and may be recovered in a civil action brought by the Federal Trade Commission, in its own name by any of its attorneys designated by it for such purpose, in a district court of the United States against any person, partnership or corporation that violates this section. In such actions, the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate.

11 “(2) CEASE AND DESIST.—

12 “(A) IN GENERAL.—If the Commission has
13 issued a cease and desist order with respect to
14 a person, partnership or corporation in an administrative adjudicative proceeding under the
15 authority of subsection (a)(1), an action
16 brought pursuant to paragraph (1) may be
17 commenced against such person, partnership or
18 corporation at any time before the expiration of
19 1 year after such order becomes final pursuant
20 to section 5(g).

22 “(B) EXCEPTION.—In an action under
23 subparagraph (A), the findings of the Commission as to the material facts in the administrative adjudicative proceeding with respect to
24
25

1 such person's, partnership's or corporation's
2 violation of this section shall be conclusive un-
3 less—

4 “(i) the terms of such cease and de-
5 sist order expressly provide that the Com-
6 mission's findings shall not be conclusive;
7 or

8 “(ii) the order became final by reason
9 of section 5(g)(1), in which case such find-
10 ing shall be conclusive if supported by evi-
11 dence.

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

15 “(A) the nature, circumstances, extent,
16 and gravity of the violation;

17 “(B) with respect to the violator, the de-
18 gree of culpability, any history of violations, the
19 ability to pay, any effect on the ability to con-
20 tinue doing business, profits earned by the
21 NDA holder, compensation received by the
22 ANDA filer, and the amount of commerce af-
23 fected; and

24 “(C) other matters that justice requires.

1 “(4) REMEDIES IN ADDITION.—Remedies pro-
2 vided in this subsection are in addition to, and not
3 in lieu of, any other remedy provided by Federal
4 law. Nothing in this paragraph shall be construed to
5 affect any authority of the Commission under any
6 other provision of law.

7 “(h) DEFINITIONS.—In this section:

8 “(1) AGREEMENT.—The term ‘agreement’
9 means anything that would constitute an agreement
10 under section 1 of the Sherman Act (15 U.S.C. 1)
11 or section 5 of this Act.

12 “(2) AGREEMENT RESOLVING OR SETTLING A
13 PATENT INFRINGEMENT CLAIM.—The term ‘agree-
14 ment resolving or settling a patent infringement
15 claim’ includes any agreement that is entered into
16 within 30 days of the resolution or the settlement of
17 the claim, or any other agreement that is contingent
18 upon, provides a contingent condition for, or is oth-
19 erwise related to the resolution or settlement of the
20 claim.

21 “(3) ANDA.—The term ‘ANDA’ means an ab-
22 breviated new drug application, as defined under
23 section 505(j) of the Federal Food, Drug, and Cos-
24 metic Act (21 U.S.C. 355(j)).

1 “(4) ANDA FILER.—The term ‘ANDA filer’
2 means a party who has filed an ANDA with the
3 Food and Drug Administration.

4 “(5) ANDA PRODUCT.—The term ‘ANDA
5 product’ means the product to be manufactured
6 under the ANDA that is the subject of the patent
7 infringement claim.

8 “(6) DRUG PRODUCT.—The term ‘drug prod-
9 uct’ means a finished dosage form (e.g., tablet, cap-
10 sule, or solution) that contains a drug substance,
11 generally, but not necessarily, in association with 1
12 or more other ingredients, as defined in section
13 314.3(b) of title 21, Code of Federal Regulations.

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

18 “(8) NDA HOLDER.—The term ‘NDA holder’
19 means—

20 “(A) the party that received FDA approval
21 to market a drug product pursuant to an NDA;

22 “(B) a party owning or controlling enforce-
23 ment of the patent listed in the Approved Drug
24 Products With Therapeutic Equivalence Eval-

1 uations (commonly known as the ‘FDA Orange
2 Book’) in connection with the NDA; or

3 “(C) the predecessors, subsidiaries, divi-
4 sions, groups, and affiliates controlled by, con-
5 trolling, or under common control with any of
6 the entities described in subparagraphs (A) and
7 (B) (such control to be presumed by direct or
8 indirect share ownership of 50 percent or great-
9 er), as well as the licensees, licensors, succes-
10 sors, and assigns of each of the entities.

11 “(9) PATENT INFRINGEMENT.—The term ‘pat-
12 ent infringement’ means infringement of any patent
13 or of any filed patent application, extension, reissue,
14 renewal, division, continuation, continuation in part,
15 reexamination, patent term restoration, patents of
16 addition and extensions thereof.

17 “(10) PATENT INFRINGEMENT CLAIM.—The
18 term ‘patent infringement claim’ means any allega-
19 tion made to an ANDA filer, whether or not in-
20 cluded in a complaint filed with a court of law, that
21 its ANDA or ANDA product may infringe any pat-
22 ent held by, or exclusively licensed to, the NDA
23 holder of the drug product.

24 “(11) STATUTORY EXCLUSIVITY.—The term
25 ‘statutory exclusivity’ means those prohibitions on

1 the approval of drug applications under clauses (ii)
2 through (iv) of section 505(c)(3)(E) (5- and 3-year
3 data exclusivity), section 527 (orphan drug exclu-
4 sivity), or section 505A (pediatric exclusivity) of the
5 Federal Food, Drug, and Cosmetic Act .”.

6 (b) EFFECTIVE DATE.—Section 28 of the Federal
7 Trade Commission Act, as added by this section, shall
8 apply to all agreements described in section 28(a)(1) of
9 that Act entered into after November 15, 2009. Section
10 28(g) of the Federal Trade Commission Act, as added by
11 this section, shall not apply to agreements entered into
12 before the date of enactment of this chapter.

13 NOTICE AND CERTIFICATION OF AGREEMENTS

14 SEC. 4203. (a) NOTICE OF ALL AGREEMENTS.—Sec-
15 tion 1112(c)(2) of the Medicare Prescription Drug, Im-
16 provement, and Modernization Act of 2003 (21 U.S.C.
17 355 note) is amended—

18 (1) by striking “the Commission the” and in-
19 serting the following: “the Commission—

20 “(1) the”;

21 (2) by striking the period and inserting “;
22 and”;

23 (3) by inserting at the end the following:

24 “(2) any other agreement the parties enter into
25 within 30 days of entering into an agreement cov-
26 ered by subsection (a) or (b).”.

1 (b) CERTIFICATION OF AGREEMENTS.—Section 1112
2 of such Act is amended by adding at the end the following:
3 “(d) CERTIFICATION.—The Chief Executive Officer
4 or the company official responsible for negotiating any
5 agreement required to be filed under subsection (a), (b),
6 or (c) shall execute and file with the Assistant Attorney
7 General and the Commission a certification as follows: ‘I
8 declare that the following is true, correct, and complete
9 to the best of my knowledge: The materials filed with the
10 Federal Trade Commission and the Department of Justice
11 under section 1112 of subtitle B of title XI of the Medi-
12 care Prescription Drug, Improvement, and Modernization
13 Act of 2003, with respect to the agreement referenced in
14 this certification: (1) represent the complete, final, and ex-
15 clusive agreement between the parties; (2) include any an-
16 cillary agreements that are contingent upon, provide a
17 contingent condition for, or are otherwise related to, the
18 referenced agreement; and (3) include written descriptions
19 of any oral agreements, representations, commitments, or
20 promises between the parties that are responsive to sub-
21 section (a) or (b) of such section 1112 and have not been
22 reduced to writing.’”.

23 FORFEITURE OF 180-DAY EXCLUSIVITY PERIOD

24 SEC. 4204. Section 505(j)(5)(D)(i)(V) of the Federal
25 Food, Drug and Cosmetic Act (21 U.S.C.
26 355(j)(5)(D)(i)(V)) is amended by inserting “section 28

1 of the Federal Trade Commission Act or” after “that the
2 agreement has violated”.

3 COMMISSION LITIGATION AUTHORITY

4 SEC. 4205. Section 16(a)(2) of the Federal Trade
5 Commission Act (15 U.S.C. 56(a)(2)) is amended—

6 (1) in subparagraph (D), by striking “or” after
7 the semicolon;

8 (2) in subparagraph (E), by inserting “or”
9 after the semicolon; and

10 (3) by inserting after subparagraph (E) the fol-
11 lowing:

12 “(F) under section 28;”.

13 STATUTE OF LIMITATIONS

14 SEC. 4206. The Commission shall commence any en-
15 forcement proceeding described in section 28 of the Fed-
16 eral Trade Commission Act, as added by section 3202, ex-
17 cept for an action described in section 28(g)(2) of the Fed-
18 eral Trade Commission Act, not later than 3 years after
19 the date on which the parties to the agreement file the
20 Notice of Agreement as provided by section 1112(c) of the
21 Medicare Prescription Drug Improvement and Moderniza-
22 tion Act of 2003 (21 U.S.C. 355 note).

23 SEVERABILITY

24 SEC. 4207. If any provision of this chapter, an
25 amendment made by this chapter, or the application of
26 such provision or amendment to any person or cir-

1 cumstance is held to be unconstitutional, the remainder
2 of this chapter, the amendments made by this chapter,
3 and the application of the provisions of such chapter or
4 amendments to any person or circumstance shall not be
5 affected thereby.

6

CHAPTER 3

7

COMPUTATION OF MEDICAID AVERAGE

8

MANUFACTURER PRICE

9

COMPUTATION OF MEDICAID AVERAGE MANUFACTURER

10

PRICE (AMP) FOR DRUGS NOT DISPENSED THROUGH

11

RETAIL COMMUNITY PHARMACIES

12

SEC. 4301. (a) IN GENERAL.—Section

13

1927(k)(1)(B)(i)(IV) of the Social Security Act (42

14

U.S.C. 1396r-8(k)(1)(B)(i)(IV)), as amended by section

15

2503(a)(2)(B) of the Patient Protection and Affordable

16

Care Act (Public Law 111-148) and by section 1102(e)(2)

17

of the Health Care and Education Reconciliation Act of

18

2010 (Public Law 111-152), is amended by inserting

19

after “retail community pharmacy” the following: “, ex-

20

cept that in the case of an inhalation, infusion, or

21

injectable drug that is not dispensed through a retail com-

22

munity pharmacy, the exclusion under this subclause shall

23

not apply to payments received directly from hospitals,

24

clinics, doctors, and other entities directly dispensing the

25

drug or from distributors; and”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall take effect as if included in section
3 2503 of Public Law 111–148.

4 CHAPTER 4

5 PUBLIC SAFETY EMPLOYER-EMPLOYEE

6 COOPERATION ACT

7 SHORT TITLE

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

10 DECLARATION OF PURPOSE AND POLICY

11 SEC. 4402. The Congress declares that the following
12 is the policy of the United States:

13 (1) Labor-management relationships and part-
14 nerships are based on trust, mutual respect, open
15 communication, bilateral consensual problem solving,
16 and shared accountability. Labor-management co-
17 operation fully utilizes the strengths of both parties
18 to best serve the interests of the public, operating as
19 a team, to carry out the public safety mission in a
20 quality work environment. In many public safety
21 agencies, it is the union that provides the institu-
22 tional stability as elected leaders and appointees
23 come and go.

24 (2) State and local public safety officers play an
25 essential role in the efforts of the United States to
26 detect, prevent, and respond to terrorist attacks, and

1 to respond to natural disasters, hazardous materials,
2 and other mass casualty incidents. State and local
3 public safety officers, as first responders, are a com-
4 ponent of our Nation's National Incident Manage-
5 ment System, developed by the Department of
6 Homeland Security to coordinate response to and re-
7 covery from terrorism, major natural disasters, and
8 other major emergencies. Public safety employer-em-
9 ployee cooperation is essential in meeting these
10 needs and is, therefore, in the National interest.

11 (3) The Federal Government needs to encour-
12 age conciliation, mediation, and voluntary arbitra-
13 tion to aid and encourage employers and the rep-
14 resentatives of their employees to reach and main-
15 tain agreements concerning rates of pay, hours, and
16 working conditions, and to make all reasonable ef-
17 forts through negotiations to settle their differences
18 by mutual agreement reached through collective bar-
19 gaining or by such methods as may be provided for
20 in any applicable agreement for the settlement of
21 disputes.

22 (4) The absence of adequate cooperation be-
23 tween public safety employers and employees has im-
24 plications for the security of employees and can af-
25 fect interstate and intrastate commerce. The lack of

1 such labor-management cooperation can detrimen-
2 tally impact the upgrading of police and fire services
3 of local communities, the health and well-being of
4 public safety officers, and the morale of the fire and
5 police departments. Additionally, these factors could
6 have significant commercial repercussions. Moreover,
7 providing minimal standards for collective bar-
8 gaining negotiations in the public safety sector can
9 prevent industrial strife between labor and manage-
10 ment that interferes with the normal flow of com-
11 merce.

12 (5) Many States and localities already provide
13 public safety officers with collective bargaining
14 rights comparable to or greater than the rights and
15 responsibilities set forth in this chapter, and such
16 State and local laws should be respected.

17 DEFINITIONS

18 SEC. 4403. In this chapter:

19 (1) AUTHORITY.—The term “Authority” means
20 the Federal Labor Relations Authority.

21 (2) CONFIDENTIAL EMPLOYEE.—The term
22 “confidential employee” has the meaning given such
23 term under applicable State law on the date of en-
24 actment of this Act. If no such State law is in effect,
25 the term means an individual, employed by a public
26 safety employer, who—

1 (A) is designated as confidential; and

2 (B) is an individual who routinely assists,
3 in a confidential capacity, supervisory employ-
4 ees and management employees.

5 (3) EMERGENCY MEDICAL SERVICES PER-
6 SONNEL.—The term “emergency medical services
7 personnel” means an individual who provides out-of-
8 hospital emergency medical care, including an emer-
9 gency medical technician, paramedic, or first re-
10 sponder.

11 (4) EMPLOYER; PUBLIC SAFETY AGENCY.—The
12 terms “employer” and “public safety agency” mean
13 any State, or political subdivision of a State, that
14 employs public safety officers.

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

19 (6) LABOR ORGANIZATION.—The term “labor
20 organization” means an organization composed in
21 whole or in part of employees, in which employees
22 participate, and which represents such employees be-
23 fore public safety agencies concerning grievances,
24 conditions of employment, and related matters.

1 (7) LAW ENFORCEMENT OFFICER.—The term
2 “law enforcement officer” has the meaning given
3 such term in section 1204 of the Omnibus Crime
4 Control and Safe Streets Act of 1968 (42 U.S.C.
5 3796b).

6 (8) MANAGEMENT EMPLOYEE.—The term
7 “management employee” has the meaning given
8 such term under applicable State law in effect on
9 the date of enactment of this Act. If no such State
10 law is in effect, the term means an individual em-
11 ployed by a public safety employer in a position that
12 requires or authorizes the individual to formulate,
13 determine, or influence the policies of the employer.

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

16 (10) PUBLIC SAFETY OFFICER.—The term
17 “public safety officer”—

18 (A) means an employee of a public safety
19 agency who is a law enforcement officer, a fire-
20 fighter, or an emergency medical services per-
21 sonnel;

22 (B) includes an individual who is tempo-
23 rarily transferred to a supervisory or manage-
24 ment position; and

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

3 (11) STATE.—The term “State” means each of
4 the several States of the United States, the District
5 of Columbia, and any territory or possession of the
6 United States.

7 (12) SUBSTANTIALLY PROVIDES.—The term
8 “substantially provides”, when used with respect to
9 the rights and responsibilities described in section
10 3404(b), means compliance with each right and re-
11 sponsibility described in such section.

12 (13) SUPERVISORY EMPLOYEE.—The term “su-
13 pervisory employee” has the meaning given such
14 term under applicable State law in effect on the date
15 of enactment of this Act. If no such State law is in
16 effect, the term means an individual, employed by a
17 public safety employer, who—

18 (A) has the authority in the interest of the
19 employer to hire, direct, assign, promote, re-
20 ward, transfer, furlough, lay off, recall, sus-
21 pend, discipline, or remove public safety offi-
22 cers, to adjust their grievances, or to effectively
23 recommend such action, if the exercise of the
24 authority is not merely routine or clerical in na-

1 ture but requires the consistent exercise of
2 independent judgment; and

3 (B) devotes a majority of time at work to
4 exercising such authority.

5 DETERMINATION OF RIGHTS AND RESPONSIBILITIES

6 SEC. 4404. (a) DETERMINATION.—

7 (1) IN GENERAL.—Not later than 180 days
8 after the date of enactment of this Act, the Author-
9 ity shall make a determination as to whether a State
10 substantially provides for the rights and responsibil-
11 ities described in subsection (b).

12 (2) CONSIDERATION OF ADDITIONAL OPIN-
13 IONS.—In making the determination described in
14 paragraph (1), the Authority shall consider the opin-
15 ions of affected employers and labor organizations.
16 In the case where the Authority is notified by an af-
17 fected employer and labor organization that both
18 parties agree that the law applicable to such em-
19 ployer and labor organization substantially provides
20 for the rights and responsibilities described in sub-
21 section (b), the Authority shall give such agreement
22 weight to the maximum extent practicable in making
23 the Authority's determination under this subsection.

24 (3) LIMITED CRITERIA.—In making the deter-
25 mination described in paragraph (1), the Authority
26 shall be limited to the application of the criteria de-

1 scribed in subsection (b) and shall not require any
2 additional criteria.

3 (4) SUBSEQUENT DETERMINATIONS.—

4 (A) IN GENERAL.—A determination made
5 pursuant to paragraph (1) shall remain in ef-
6 fect unless and until the Authority issues a sub-
7 sequent determination, in accordance with the
8 procedures set forth in subparagraph (B).

9 (B) PROCEDURES FOR SUBSEQUENT DE-
10 TERMINATIONS.—Upon establishing that a ma-
11 terial change in State law or its interpretation
12 has occurred, an employer or a labor organiza-
13 tion may submit a written request for a subse-
14 quent determination. If satisfied that a material
15 change in State law or its interpretation has oc-
16 curred, the Authority shall issue a subsequent
17 determination not later than 30 days after re-
18 ceipt of such request.

19 (5) JUDICIAL REVIEW.—Any person or em-
20 ployer aggrieved by a determination of the Authority
21 under this section may, during the 60-day period be-
22 ginning on the date on which the determination was
23 made, petition any United States Court of Appeals
24 in the circuit in which the person or employer re-
25 sides or transacts business or in the District of Co-

1 lumbia circuit, for judicial review. In any judicial re-
2 view of a determination by the Authority, the proce-
3 dures contained in subsections (c) and (d) of section
4 7123 of title 5, United States Code, shall be fol-
5 lowed.

6 (b) RIGHTS AND RESPONSIBILITIES.—In making a
7 determination described in subsection (a), the Authority
8 shall consider a State’s law to substantially provide the
9 required rights and responsibilities unless such law fails
10 to provide rights and responsibilities comparable to or
11 greater than the following:

12 (1) Granting public safety officers the right to
13 form and join a labor organization, which may ex-
14 clude management employees, supervisory employ-
15 ees, and confidential employees, that is, or seeks to
16 be, recognized as the exclusive bargaining represent-
17 ative of such employees.

18 (2) Requiring public safety employers to recog-
19 nize the employees’ labor organization (freely chosen
20 by a majority of the employees), to agree to bargain
21 with the labor organization, and to commit any
22 agreements to writing in a contract or memorandum
23 of understanding.

1 (3) Providing for the right to bargain over
2 hours, wages, and terms and conditions of employ-
3 ment.

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

7 (5) Requiring enforcement of all rights, respon-
8 sibilities, and protections provided by State law and
9 enumerated in this section, and of any written con-
10 tract or memorandum of understanding between a
11 labor organization and a public safety employer,
12 through—

13 (A) a State administrative agency, if the
14 State so chooses; and

15 (B) at the election of an aggrieved party,
16 the State courts.

17 (c) COMPLIANCE WITH REQUIREMENTS.—If the Au-
18 thority determines, acting pursuant to its authority under
19 subsection (a), that a State substantially provides rights
20 and responsibilities described in subsection (b), then this
21 chapter shall not preempt State law.

22 (d) FAILURE TO MEET REQUIREMENTS.—

23 (1) IN GENERAL.—If the Authority determines,
24 acting pursuant to its authority under subsection
25 (a), that a State does not substantially provide for

1 the rights and responsibilities described in sub-
2 section (b), then such State shall be subject to the
3 regulations and procedures described in section 3405
4 beginning on the later of—

5 (A) the date that is 2 years after the date
6 of enactment of this Act;

7 (B) the date that is the last day of the
8 first regular session of the legislature of the
9 State that begins after the date of the enact-
10 ment of this Act; or

11 (C) in the case of a State receiving a sub-
12 sequent determination under subsection (a)(4),
13 the date that is the last day of the first regular
14 session of the legislature of the State that be-
15 gins after the date the Authority made the de-
16 termination.

17 (2) PARTIAL FAILURE.—If the Authority makes
18 a determination that a State does not substantially
19 provide for the rights and responsibilities described
20 in subsection (b) solely because the State law sub-
21 stantially provides for such rights and responsibil-
22 ities for certain categories of public safety officers
23 covered by this chapter but not others, the Authority
24 shall identify those categories of public safety offi-
25 cers that shall be subject to the regulations and pro-

1 cedures described in section 4405, pursuant to sec-
2 tion 4408(b)(3) and beginning on the appropriate
3 date described in paragraph (1), and those cat-
4 egories of public safety officers that shall remain
5 subject to State law.

6 ROLE OF FEDERAL LABOR RELATIONS AUTHORITY

7 SEC. 4405. (a) IN GENERAL.—Not later than 1 year
8 after the date of enactment of this Act, the Authority shall
9 issue regulations in accordance with the rights and respon-
10 sibilities described in section 4404(b) establishing collec-
11 tive bargaining procedures for employers and public safety
12 officers in States which the Authority has determined, act-
13 ing pursuant to section 4404(a), do not substantially pro-
14 vide for such rights and responsibilities.

15 (b) ROLE OF THE FEDERAL LABOR RELATIONS AU-
16 THORITY.—The Authority, to the extent provided in this
17 chapter and in accordance with regulations prescribed by
18 the Authority, shall—

19 (1) determine the appropriateness of units for
20 labor organization representation;

21 (2) supervise or conduct elections to determine
22 whether a labor organization has been selected as an
23 exclusive representative by a voting majority of the
24 employees in an appropriate unit;

25 (3) resolve issues relating to the duty to bar-
26 gain in good faith;

1 (4) conduct hearings and resolve complaints of
2 unfair labor practices;

3 (5) resolve exceptions to the awards of arbitra-
4 tors;

5 (6) protect the right of each employee to form,
6 join, or assist any labor organization, or to refrain
7 from any such activity, freely and without fear of
8 penalty or reprisal, and protect each employee in the
9 exercise of such right; and

10 (7) take such other actions as are necessary
11 and appropriate to effectively administer this chap-
12 ter, including issuing subpoenas requiring the at-
13 tendance and testimony of witnesses and the produc-
14 tion of documentary or other evidence from any
15 place in the United States, and administering oaths,
16 taking or ordering the taking of depositions, order-
17 ing responses to written interrogatories, and receiv-
18 ing and examining witnesses.

19 (c) ENFORCEMENT.—

20 (1) AUTHORITY TO PETITION COURT.—The Au-
21 thority may petition any United States Court of Ap-
22 peals with jurisdiction over the parties, or the
23 United States Court of Appeals for the District of
24 Columbia Circuit, to enforce any final orders under
25 this section, and for appropriate temporary relief or

1 a restraining order. Any petition under this section
2 shall be conducted in accordance with subsections
3 (c) and (d) of section 7123 of title 5, United States
4 Code.

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

18 STRIKES AND LOCKOUTS PROHIBITED

19 SEC. 4406. (a) IN GENERAL.—Subject to subsection
20 (b), an employer, public safety officer, or labor organiza-
21 tion may not engage in a lockout, sickout, work slowdown,
22 strike, or any other organized job action that will measur-
23 ably disrupt the delivery of emergency services and is de-
24 signed to compel an employer, public safety officer, or
25 labor organization to agree to the terms of a proposed con-
26 tract.

1 (b) NO PREEMPTION.—Nothing in this section shall
2 be construed to preempt any law of any State or political
3 subdivision of any State with respect to strikes by public
4 safety officers.

5 EXISTING COLLECTIVE BARGAINING UNITS AND
6 AGREEMENTS

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

15 CONSTRUCTION AND COMPLIANCE

16 SEC. 4408. (a) CONSTRUCTION.—Nothing in this
17 chapter shall be construed—

18 (1) to preempt or limit the remedies, rights,
19 and procedures of any law of any State or political
20 subdivision of any State that provides greater or
21 comparable rights and responsibilities than the
22 rights and responsibilities described in section
23 4404(b);

24 (2) to prevent a State from enforcing a right-
25 to-work law that prohibits employers and labor orga-
26 nizations from negotiating provisions in a labor

1 agreement that require union membership or pay-
2 ment of union fees as a condition of employment;

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

10 (4) to preempt or limit any State law in effect
11 on the date of enactment of this Act that provides
12 for the rights and responsibilities described in sec-
13 tion 4404(b) solely because such State law excludes
14 from its coverage employees of a State militia or na-
15 tional guard;

16 (5) to permit parties in States subject to the
17 regulations and procedures described in section 4405
18 to negotiate provisions that would prohibit an em-
19 ployee from engaging in part-time employment or
20 volunteer activities during off-duty hours;

21 (6) to prohibit a State from exempting from
22 coverage under this chapter a political subdivision of
23 the State that has a population of less than 5,000
24 or that employs less than 25 full-time employees; or

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

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

11 (b) COMPLIANCE.—

12 (1) ACTIONS OF STATES.—Nothing in this
13 chapter or the regulations promulgated under this
14 chapter shall be construed to require a State to re-
15 scind or preempt the laws or ordinances of any of
16 the State’s political subdivisions if such laws provide
17 rights and responsibilities for public safety officers
18 that are comparable to or greater than the rights
19 and responsibilities described in section 4404(b).

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

23 (A) the laws or ordinances of any State or
24 political subdivision of a State, if such laws pro-
25 vide collective bargaining rights for public safe-

1 ty officers that are comparable to or greater
2 than the rights enumerated in section 4404(b);

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

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

21 (3) LIMITED ENFORCEMENT POWER.—In the
22 case of a law described in paragraph (2)(B), the Au-
23 thority shall only exercise the powers provided in
24 section 4405 with respect to those categories of pub-
25 lic safety officers who have not been afforded the

1 rights and responsibilities described in section
2 4404(b).

3 (4) EXCLUSIVE ENFORCEMENT PROVISION.—

4 Notwithstanding any other provision of the chapter,
5 and in the absence of a waiver of a State’s sovereign
6 immunity, the Authority shall have the exclusive
7 power to enforce the provisions of this chapter with
8 respect to employees of a State.

9 AUTHORIZATION OF APPROPRIATIONS

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

13 CHAPTER 5
14 PROGRAM INTEGRITY INITIATIVES
15 DEPARTMENT OF THE TREASURY
16 INTERNAL REVENUE SERVICE
17 ENFORCEMENT

18 For an additional amount for “Enforcement”,
19 \$245,000,000, to remain available through September 30,
20 2011, for additional and enhanced tax enforcement activi-
21 ties: *Provided*, That section 3002 shall not apply to the
22 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 Secu-
8 rity Administration Account of the Unemployment Trust
9 Fund and remain available through September 30, 2011,
10 to conduct in-person reemployment and eligibility assess-
11 ments and unemployment insurance improper payment re-
12 views: *Provided*, That section 3002 shall not apply to the
13 amount 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,
23 of which \$124,747,000 shall be for Centers for Medicare
24 and Medicaid Services Program Integrity Activities, in-
25 cluding administrative costs, to conduct oversight activi-

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

14 RELATED AGENCIES

15 SOCIAL SECURITY ADMINISTRATION

16 LIMITATION ON ADMINISTRATIVE EXPENSES

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

1 the scorecards maintained by the Office of Manage-
2 ment and Budget to provide offsets for future legis-
3 lation.

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

