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HOUSE OF REPRESENTATIVES
REPORT
111–522

PROVIDING FOR CONSIDERATION OF THE SENATE AMENDMENTS TO THE BILL (H.R. 4899) MAKING EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR DISASTER RELIEF AND SUMMER JOBS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2010, AND FOR OTHER PURPOSES

JULY 1, 2010.—Referred to the House Calendar and ordered to be printed

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Mr. MCGOVERN, from the Committee on Rules, submitted the following

R E P O R T

[To accompany H. Res. 1500]

The Committee on Rules, having had under consideration House Resolution 1500, by a non-record vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for the consideration of the Senate amendments to H.R. 4899, making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes, with the Senate amendments thereto. The resolution makes in order a motion by the chairman of the Committee on Appropriations to concur in the Senate amendment to the text with each of the five House amendments printed in this report. The resolution waives all points of order against consideration of the motion except those arising under clause 10 of rule XXI and provides that the Senate amendments and the motion shall be considered as read. The resolution provides that the motion shall be debatable for one hour and 30 minutes as follows: 30 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Appropriations; then 30 minutes equally divided and controlled by Representative Lee of California or her designee and an opponent; and then 30 minutes equally divided and controlled by Representative McGovern of Massachusetts or his designee and an opponent. The resolution provides that the previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question except that the question of adoption of the motion shall be divided among the five House amendments, with the first portion of the divided question considered as adopted. The resolution provides that if the remain-

ing portions of the divided question fail of adoption, then the House shall be considered to have rejected the motion and to have made no disposition of the Senate amendment to the text.

The resolution provides that upon adoption of the motion specified in the first section of the resolution the Clerk shall engross the action of the House under that section as a single amendment; and a motion that the House concur in the Senate amendment to the title shall be considered as adopted. The resolution allows the chair of the Committee on Appropriations to insert in the Congressional Record not later than July 3, 2010, such material as he may deem explanatory of the Senate amendments and the motion specified in the first section of this resolution. The resolution provides that House Resolution 1493 is hereby adopted. The resolution amends the time periods in clause 10 of rule XXI to align with the Statutory Pay-As-You-Go Act of 2010.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of the motion (except for clause 10 of rule XXI) includes a waiver of Section 302(c) of the Congressional Budget Act, prohibiting consideration of a committee's legislation providing new budget authority until that committee has filed its 302(b) report.

COMPLIANCE WITH HOUSE RULE XIII

Statement of oversight findings and recommendations of the Committee

In accordance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee finds that the time periods analyzed for legislative compliance with the House paygo rule (clause 10 of rule XXI) and the Statutory Pay-As-You-Go Act of 2010 (Pub. L. No. 111–139) do not align with each other. While both the rule and the statute are designed to ensure that legislative measures do not increase the deficit or reduce the surplus, the differing time periods can lead to different estimates. Conforming the time periods in the House paygo rule to the time periods in the statute would simplify the analysis of legislative measures for compliance with both provisions.

Congressional Budget Office cost estimate

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee states, with respect to this resolution, that the Director of the Congressional Budget Office did not submit a cost estimate and comparison under section 402 of the Congressional Budget Act of 1974.

Statement of general performance goals and objectives

In accordance with clause 3(c) of rule XIII of the Rules of the House of Representatives, the goal of this resolution is to conform the time periods analyzed under the House paygo rule (clause 10 of rule XXI) to the time periods analyzed under the Statutory Pay-As-You-Go Act of 2010 (Pub. L. No. 111–139).

Changes to Rules of the House

In accordance with clause 3(g) of rule XIII, changes to the Rules of the House made by the resolution, as reported, are shown as follows (existing provisions proposed to be omitted are enclosed in black brackets, new matter is printed in italic, existing provisions in which no change is proposed are shown in roman):

Clause 10 of rule XIII. [(a)(1) Except as provided in paragraphs (b) and (c), it shall not be in order to consider any bill, joint resolution, amendment, or conference report if the provisions of such measure affecting direct spending and revenues have the net effect of increasing the deficit or reducing the surplus for either the period comprising—

[(A) the current fiscal year, the budget year set forth in the most recently completed concurrent resolution on the budget, and the four fiscal years following that budget year; or

[(B) the current fiscal year, the budget year set forth in the most recently completed concurrent resolution on the budget, and the nine fiscal years following that budget year.

[(2) The effect of such measure on the deficit or surplus shall be determined on the basis of estimates made by the Committee on the Budget relative to baseline estimates supplied by the Congressional Budget Office consistent with section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985] *(a)(1) Except as provided in paragraphs (b) and (c), it shall not be in order to consider any bill, joint resolution, amendment, or conference report if the provisions of such measure affecting direct spending and revenues have the net effect of increasing the on-budget deficit or reducing the on-budget surplus for the period comprising either—*

(A) the current year, the budget year, and the four years following that budget year; or

(B) the current year, the budget year, and the nine years following that budget year.

(2) The effect of such measure on the deficit or surplus shall be determined on the basis of estimates made by the Committee on the Budget relative to baseline estimates supplied by the Congressional Budget Office consistent with section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 and consistent with sections 3(4), 3(8), and 4(c) of the Statutory Pay-As-You-Go Act of 2010.

(3) For the purpose of this clause, the terms 'budget year,' 'current year,' and 'direct spending' have the meanings specified in section 250 of the Balanced Budget and Emergency Deficit Control Act of 1985, except that the term 'direct spending' shall also include provisions in appropriation Acts that make outyear modifications to substantive law as described in section 3(4)(C) of the Statutory Pay-As-You-Go Act of 2010.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 458

Date: July 01, 2010.

Measure: Senate amendment to H.R. 4899.
Motion by: Mr. Dreier.
Summary of motion: to report a rule which provides for a motion to concur in the Senate amendment without further amendment to ensure our military has the needed funds to support our men and women on the front lines,
Results: Defeated 2–8.
Vote by Members: McGovern—Nay; Hastings (FL)—Nay; Matsui—Nay; Cardoza—Nay; Perlmutter—Nay; Pingree—Nay; Polis—Nay; Dreier—Yea; Foxx—Yea; Slaughter—Nay.

SUMMARY OF AMENDMENT NO. 1 TO BE CONSIDERED AS ADOPTED

The amendment pays for settlement of the Cobell v. Salazar and Pigford v. Vilsack class action lawsuits. Second, the amendment will allow local Workforce Investment Boards to expand youth jobs programs that were funded in the American Recovery and Reinvestment Act and support over 350,000 jobs for youth ages 14 to 24 through youth employment programs. The amendment would make two changes to title IV, the "Surface Transportation Extension Act of 2010," of the Hiring Incentives to Restore Employment (HIRE) Act. First, it would distribute the Projects of National and Regional Significance (PNRS) and National Corridor Infrastructure Improvement (National Corridor) program funding so that each State receives a share equal to the greater of either (1) the amount of PNRS and National Corridor program funding that the State received under the HIRE Act or (2) the amount of PNRS and National Corridor funding that the State receives under this Act. The provision authorizes such sums as may be necessary from the Highway Trust Fund to provide these amounts. Second, the amendment would distribute "additional" highway formula funds (which the bill makes available in lieu of additional congressionally-designated projects) among all of the highway formula programs rather than among just six formula programs. Third, the amendment incorporates the President's 2011 Budget proposal to require a minimum 10-year term for Grantor-Retained Annuity Trusts. It also would require that the value of the remainder interest must be greater than zero and that the annuity not decrease during the first 10 years of the GRAT term. Finally, in 2008, Congress enacted a $1.01 per gallon tax credit for the production of biofuel from cellulosic feedstocks in order to encourage the development of new production capacity for biofuels that are not derived from food source materials. This provision would limit eligibility for the tax credit to fuels that are not highly corrosive.

SUMMARY OF AMENDMENT NO. 2 TO BE MADE IN ORDER

Obey: The amendment adds $10 billion for an Education Jobs Fund, $4.95 billion for Pell Grants, $701 million for border security, $180 million for innovative technology energy loans, $163 million for schools on military installations, $142 million in additional Gulf Coast oil spill funding, $50 million in emergency food assistance, and $16.5 million to build a new soldier processing center at Fort Hood. In order to hold the total amount to the President's requested level over a ten-year period, the amendment includes $11.7 billion in rescissions from programs that no longer require the funding, have sufficient funds on hand, or do not need the funding

this year or next, and $4.7 billion in savings from changes to mandatory programs. In total, the amendment saves the Federal Government $493 million over ten years compared to the President's request. The amendment also provides $538 million for program integrity investments that are proven to produce 1½ times that in savings.

SUMMARY OF AMENDMENT NO. 3 TO BE MADE IN ORDER

The amendment would strike military funding for Afghanistan from the bill.

SUMMARY OF AMENDMENT NO. 4 TO BE MADE IN ORDER

Lee (CA): The amendment would begin to end the war in Afghanistan by preventing an escalation of troops in Afghanistan and by limiting funding to the safe withdrawal of troops from Afghanistan.

SUMMARY OF AMENDMENT NO. 5 TO BE MADE IN ORDER

McGovern-Obey-Jones (NC): The amendment would require the president to present Congress with 1) a new National Intelligence Estimate on Afghanistan by January 31, 2011 and 2) a plan by April 4, 2011 on the safe, orderly and expeditious redeployment of U.S. troops from Afghanistan, including a timeframe for the completion of the redeployment. The amendment also requires Congress to vote by July 2011 if it wants to allow the obligation and expenditure of funds for Afghanistan in a manner that is not consistent with the president's announced policy of December 2009 to begin to drawdown troops by July 2011. The amendment also requires quarterly reports to Congress on the status of the plan submitted to Congress and strengthens and expands oversight of private contractors in Afghanistan to deal more effectively with corruption, waste, fraud and abuse. Last, the amendment clarifies that no part of the amendment shall limit the president's ability to attack al Qaeda, gather and share intelligence with allies in Afghanistan and Pakistan, or modify U.S. military strategy on-the-ground over the period of redeployment.

TEXT OF AMENDMENTS

TEXT OF AMENDMENT NO. 1 TO BE CONSIDERED AS ADOPTED

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

TITLE V—OTHER PROVISIONS

Subtitle A—Settlements and Other Program Provisions

SEC. 5001. APPROPRIATION OF FUNDS FOR FINAL SETTLEMENT OF CLAIMS FROM IN RE BLACK FARMERS DISCRIMINATION LITIGATION.

(a) DEFINITIONS.—In this section:

(1) SETTLEMENT AGREEMENT.—The term "Settlement Agreement" means the settlement agreement dated February 18, 2010 (including any modifications agreed to by the parties and approved by the court under that agreement) between certain plaintiffs, by and through their counsel, and the Secretary of Agriculture to resolve, fully and forever, the claims raised or that could have been raised in the cases consolidated in *In re Black Farmers Discrimination Litigation,* No. 08–511 (D.D.C.), including Pigford claims asserted under section 14012 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2209).

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

(b) APPROPRIATION OF FUNDS.—There is hereby appropriated to the Secretary of Agriculture $1,150,000,000, to remain available until expended, to carry out the terms of the Settlement Agreement if the Settlement Agreement is approved by a court order that is or becomes final and nonappealable. The funds appropriated by this subsection are in addition to the $100,000,000 of funds of the Commodity Credit Corporation made available by section 14012(i) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2212) and shall be available for obligation only after those Commodity Credit Corporation funds are fully obligated. If the Settlement Agreement is not approved as provided in this subsection, the $100,000,000 of funds of the Commodity Credit Corporation made available by section 14012(i) of the Food, Conservation, and Energy Act of 2008 shall be the sole funding available for Pigford claims.

(c) USE OF FUNDS.—The use of the funds appropriated by subsection (b) shall be subject to the express terms of the Settlement Agreement.

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

(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed as requiring the United States, any of its officers or agencies, or any other party to enter into the Settlement Agreement or any other settlement agreement. Nothing in this section shall be construed as creating the basis for a Pigford claim.

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

(1) in subsection (c)(1)—

(A) by striking "subsection (h)" and inserting "subsection (g)"; and

(B) by striking "subsection (i)" and inserting "subsection (h)";

(2) by striking subsection (e);

(3) in subsection (g), by striking "subsection (f)" and inserting "subsection (e)";

(4) in subsection (i)—

(A) by striking "(1) IN GENERAL.—Of the funds" and inserting "Of the funds"; and

(B) by striking paragraph (2);

(5) by striking subsection (j); and

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

SEC. 5002. EMPLOYMENT FOR YOUTH.

There is appropriated, out of any funds in the Treasury not otherwise appropriated, for an additional amount for "Department of Labor—Employment and Training Administration—Training and Employment Services" for activities under the Workforce Investment Act of 1998 ("WIA"), $1,000,000,000 shall be available for obligation on the date of enactment of this Act for grants to States for youth activities, including employment for youth: *Provided*, That no portion of such funds shall be reserved to carry out section 127(b)(1)(A) of the WIA: *Provided further*, That for purposes of section 127(b)(1)(C)(iv) of the WIA, funds available for youth activities shall be allotted as if the total amount available for youth activities in the fiscal year does not exceed $1,000,000,000: *Provided further*, That with respect to the youth activities provided with such funds, section 101(13)(A) of the WIA shall be applied by substituting "age 24" for "age 21": *Provided further*, That the work readiness performance indicator described in section 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure of performance used to assess the effectiveness of employment for youth provided with such funds: *Provided further*, That an amount that is not more than 1 percent of such amount may be used for the administration, management, and oversight of the programs, activities, and grants carried out with such funds, including the evaluation of the use of such funds: *Provided further*, That funds available under the preceding proviso, together with funds described in section 801(a) of division A of the American Recovery and reinvestment Act of 2009 (Public Law 111–5), and funds provided in such Act under the heading "Department of Labor–Departmental Management–Salaries and Expenses", shall remain available for obligation through September 30, 2011.

SEC. 5003. THE INDIVIDUAL INDIAN MONEY ACCOUNT LITIGATION SETTLEMENT ACT OF 2010.

(a) SHORT TITLE.—This section may be cited as the "Individual Indian Money Account Litigation Settlement Act of 2010".

(b) DEFINITIONS.—In this section:

(1) AMENDED COMPLAINT.—The term "Amended Complaint" means the Amended Complaint attached to the Settlement.

(2) LAND CONSOLIDATION PROGRAM.—The term "Land Consolidation Program" means a program conducted in accordance with the Settlement and the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) under which the Secretary may purchase fractional interests in trust or restricted land.

(3) LITIGATION.—The term "Litigation" means the case entitled Elouise Cobell et al. v. Ken Salazar et al., United States District Court, District of Columbia, Civil Action No. 96–1285 (JR).

(4) PLAINTIFF.—The term "Plaintiff" means a member of any class certified in the Litigation.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) SETTLEMENT.—The term "Settlement" means the Class Action Settlement Agreement dated December 7, 2009, in the Litigation, as modified by the parties to the Litigation.

(7) TRUST ADMINISTRATION CLASS.—The term "Trust Administration Class" means the Trust Administration Class as defined in the Settlement.

(c) PURPOSE.—The purpose of this section is to authorize the Settlement.

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

(e) JURISDICTIONAL PROVISIONS.—

(1) IN GENERAL.—Notwithstanding the limitation of jurisdiction of district courts contained in section 1346(a)(2) of title 28, United States Code, the United States District Court for the District of Columbia shall have jurisdiction over the claims asserted in the Amended Complaint for purposes of the Settlement.

(2) CERTIFICATION OF TRUST ADMINISTRATION CLASS.—

(A) IN GENERAL.—Notwithstanding the requirements of the Federal Rules of Civil Procedure, the court overseeing the Litigation may certify the Trust Administration Class.

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

(f) TRUST LAND CONSOLIDATION.—

(1) TRUST LAND CONSOLIDATION FUND.—

(A) ESTABLISHMENT.—On final approval (as defined in the Settlement) of the Settlement, there shall be established in the Treasury of the United States a fund, to be known as the "Trust Land Consolidation Fund".

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

(i) to conduct the Land Consolidation Program; and

(ii) for other costs specified in the Settlement.

(C) DEPOSITS.—

(i) IN GENERAL.—On final approval (as defined in the Settlement) of the Settlement, the Secretary of the Treasury shall deposit in the Trust Land Consolidation Fund $2,000,000,000 of the amounts appropriated by section 1304 of title 31, United States Code.

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

(D) TRANSFERS.—In a manner designed to encourage participation in the Land Consolidation Program, the Secretary may transfer, at the discretion of the Secretary, not more than $60,000,000 of amounts in the Trust Land Con-

solidation Fund to the Indian Education Scholarship Holding Fund established under paragraph 2.

(2) INDIAN EDUCATION SCHOLARSHIP HOLDING FUND.—

(A) ESTABLISHMENT.—On the final approval (as defined in the Settlement) of the Settlement, there shall be established in the Treasury of the United States a fund, to be known as the "Indian Education Scholarship Holding Fund".

(B) AVAILABILITY.—Notwithstanding any other provision of law governing competition, public notification, or Federal procurement or assistance, amounts in the Indian Education Scholarship Holding Fund shall be made available, without further appropriation, to the Secretary to contribute to an Indian Education Scholarship Fund, as described in the Settlement, to provide scholarships for Native Americans.

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

(4) TREATMENT OF UNLOCATABLE PLAINTIFFS.—A Plaintiff the whereabouts of whom are unknown and who, after reasonable efforts by the Secretary, cannot be located during the 5 year period beginning on the date of final approval (as defined in the Settlement) of the Settlement shall be considered to have accepted an offer made pursuant to the Land Consolidation Program.

(g) TAXATION AND OTHER BENEFITS.—

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

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

(B) shall not be taken into consideration for purposes of applying any provision of the Internal Revenue Code of 1986 that takes into account excludable income in computing adjusted gross income or modified adjusted gross income, including section 86 of that Code (relating to Social Security and tier 1 railroad retirement benefits).

(2) OTHER BENEFITS.—Notwithstanding any other provision of law, for purposes of determining initial eligibility, ongoing eligibility, or level of benefits under any Federal or federally assisted program, amounts received by an individual Indian as a lump sum or a periodic payment pursuant to the Settlement shall not be treated for any household member, during the 1-year period beginning on the date of receipt—

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

(B) as a resource.

SEC. 5004. EXTENSION AND FLEXIBILITY FOR CERTAIN ALLOCATED SURFACE TRANSPORTATION PROGRAMS.

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

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—
(i) by striking "1301, 1302,"; and
(ii) by striking "1198, 1204,"; and
(B) in subparagraph (A)—
(i) in the matter preceding clause (i) by striking "apportioned under sections 104(b) and 144 of title 23, United States Code," and inserting "specified in section 105(a)(2) of title 23, United States Code (except the high priority projects program),"; and
(ii) in clause (ii) by striking "apportioned under such sections of such Code" and inserting "specified in such section 105(a)(2) (except the high priority projects program)";

(2) in paragraph (2)—
(A) in the matter preceding subparagraph (A)—
(i) by striking "1301, 1302,"; and
(ii) by striking "1198, 1204,"; and
(B) in subparagraph (A)—
(i) in the matter preceding clause (i) by striking "apportioned under sections 104(b) and 144 of title 23, United States Code," and inserting "specified in section 105(a)(2) of title 23, United States Code (except the high priority projects program),"; and
(ii) in clause (ii) by striking "apportioned under such sections of such Code" and inserting "specified in such section 105(a)(2) (except the high priority projects program)"; and

(3) by adding at the end the following:

"(5) PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE AND NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAMS.—

"(A) REDISTRIBUTION AMONG STATES.—Notwithstanding sections 1301(m) and 1302(e) of SAFETEA–LU (119 Stat. 1202 and 1205), the Secretary shall apportion funds authorized to be appropriated under subsection (b) for the projects of national and regional significance program and the national corridor infrastructure improvement program among all States such that each State's share of the funds so apportioned is equal to the State's share for fiscal year 2009 of funds apportioned or allocated for the programs specified in section 105(a)(2) of title 23, United States Code.

"(B) DISTRIBUTION AMONG PROGRAMS.—Funds apportioned to a State pursuant to subparagraph (A) shall be—

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

"(I) the amount apportioned to the State for that program for fiscal year 2009; bears to

"(II) the amount apportioned to the State for fiscal year 2009 for all such programs; and

"(ii) administered in the same manner and with the same period of availability as funding is administered under programs identified in clause (i).".

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

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

(d) SAVINGS CLAUSE.—

(1) IN GENERAL.—For fiscal year 2010 and for the period beginning on October 1, 2010, and ending on December 31, 2010, the amount of funds apportioned to each State under section 411(d) of the Surface Transportation Extension Act of 2010 (Public Law 111–147) that is determined by the amount that the State received or was authorized to receive for fiscal year 2009 to carry out the projects of national and regional significance program and national corridor infrastructure improvement program shall be the greater of—

(A) the amount that the State was authorized to receive under section 411(d) of the Surface Transportation Extension Act of 2010 with respect to each such program according to the provisions of that Act, as in effect on the day before the date of enactment of this Act; or

(B) the amount that the State is authorized to receive under section 411(d) of the Surface Transportation Extension Act of 2010 with respect to each such program pursuant to the provisions of that Act, as amended by the amendments made by this section.

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

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

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

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

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

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

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

Subtitle B—Revenue Provisions

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

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

(1) by redesignating paragraphs (1), (2) and (3) as subparagraphs (A), (B), and (C), respectively, and by moving such subparagraphs (as so redesignated) 2 ems to the right,

(2) by striking "For purposes of" and inserting the following:

"(1) IN GENERAL.—For purposes of", and

(3) by striking "paragraph (1) or (2)" in paragraph (1)(C) (as so redesignated) and inserting "subparagraph (A) or (B)", and

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

"(2) ADDITIONAL REQUIREMENTS WITH RESPECT TO GRANTOR RETAINED ANNUITIES.—For purposes of subsection (a), in the case of an interest described in paragraph (1)(A) (determined without regard to this paragraph) which is retained by the transferor, such interest shall be treated as described in such paragraph only if—

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

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

"(C) the remainder interest has a value greater than zero determined as of the time of the transfer.".

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

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

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

(1) by striking "or" at the end of subclause (I),

(2) by striking the period at the end of subclause (II) and inserting ", or",

(3) by adding at the end the following new subclause:

"(III) such fuel has an acid number greater than 25.", and

(4) by striking "UNPROCESSED" in the heading and inserting "CERTAIN".

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

SEC. 5103. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

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

Subtitle C—Budgetary Provisions

SEC. 5201. BUDGETARY PROVISIONS.

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

(b) EXCLUSION FROM PAYGO.—

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

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

TEXT OF AMENDMENT NO. 2

Page 90, after line 18, insert the following:

TITLE IV

CHAPTER 1

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM

Subject to section 502 of the Congressional Budget Act of 1974, commitments to guarantee loans under title XVII of the Energy Policy Act of 2005, shall not exceed a total principal amount of $18,000,000,000 for eligible projects, to remain available until committed, of which $9,000,000,000 shall be for nuclear power facilities and $9,000,000,000 shall be for renewable energy system and efficient end-use energy technology projects: *Provided*, That these

amounts are in addition to authorities provided in any other Act: *Provided further*, That for amounts collected pursuant to section 1702(b)(2) of the Energy Policy Act of 2005, the source of such payment received from borrowers is not a loan or other debt obligation that is guaranteed by the Federal Government: *Provided further*, That none of the loan guarantee authority made available in this paragraph shall be available for commitments to guarantee loans for any projects where funds, personnel, or property (tangible or intangible) of any Federal agency, instrumentality, personnel, or affiliated entity are expected to be used (directly or indirectly) through acquisitions, contracts, demonstrations, exchanges, grants, incentives, leases, procurements, sales, other transaction authority, or other arrangements, to support the project or to obtain goods or services from the project: *Provided further*, That the previous proviso shall not be interpreted as precluding the use of the loan guarantee authority in this paragraph for commitments to guarantee loans for projects as a result of such projects benefitting from (1) otherwise allowable Federal income tax benefits; (2) being located on Federal land pursuant to a lease or right-of-way agreement for which all consideration for all uses is (A) paid exclusively in cash, (B) deposited in the Treasury as offsetting receipts, and (C) equal to the fair market value as determined by the head of the relevant Federal agency; (3) Federal insurance programs, including under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210; commonly known as the "Price-Anderson Act"); or (4) for electric generation projects, use of transmission facilities owned or operated by a Federal Power Marketing Administration or the Tennessee Valley Authority that have been authorized, approved, and financed independent of the project receiving the guarantee: *Provided further*, That none of the loan guarantee authority made available in this paragraph shall be available for any project unless the Director of the Office of Management and Budget has certified in advance in writing that the loan guarantee and the project comply with the provisions under this paragraph: *Provided further*, That none of the loan guarantee authority made available in this paragraph may be used to make a final or conditional loan guarantee award unless the Secretary of Energy provides notification of the award, including the proposed subsidy cost, to the Committees on Appropriations of the Senate and the House of Representatives at least 3 full business days in advance of such award: *Provided further*, That section 3002 shall not apply to the amounts under this heading.

DEPARTMENTAL ADMINISTRATION

For necessary expenses of the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling established by, and in order to carry out activities under, Executive Order 13543, $12,000,000, to remain available until September 30, 2011: *Provided*, That funds appropriated in this paragraph may be used to reimburse obligations incurred for the purposes provided herein prior to enactment of this Act.

DEPARTMENT OF HOMELAND SECURITY

U.S. CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $356,900,000, to remain available until September 30, 2012, of which $78,000,000 shall be for costs to maintain U.S. Customs and Border Protection Officer staffing on the Southwest Border of the United States, $58,000,000 shall be for hiring additional U.S. Customs and Border Protection Officers for deployment at ports of entry on the Southwest Border of the United States, $208,400,000 shall be for hiring additional Border Patrol agents for deployment to the Southwest Border of the United States, $2,500,000 shall be for forward operating bases on the Southwest Border of the United States, and $10,000,000 shall be to support integrity and background investigation programs.

BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

For an additional amount for "Border Security Fencing, Infrastructure, and Technology," $14,000,000, to remain available until September 30, 2011, for costs of designing, building, and deploying tactical communications for support of enforcement activities on the Southwest Border of the United States.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For an additional amount for "Air and Marine Interdiction, Operations, Maintenance, and Procurement", $32,000,000, to remain available until September 30, 2012, for costs of acquisition and deployment of unmanned aircraft systems.

CONSTRUCTION AND FACILITIES MANAGEMENT

For an additional amount for "Construction and Facilities Management", $9,000,000, to remain available until September 30, 2011, for costs to construct up to three forward operating bases for use by the Border Patrol to carry out enforcement activities on the Southwest Border of the United States.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for 'Salaries and Expenses', $30,000,000, to remain available until September 30, 2011, for law enforcement activities targeted at reducing the threat of violence along the Southwest Border of the United States.

FEDERAL EMERGENCY MANAGEMENT AGENCY

STATE AND LOCAL PROGRAMS

For an additional amount for "State and Local Programs", $50,000,000 to remain available until September 30, 2011, for Operation Stonegarden.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $8,100,000, to remain available until September 30, 2011, for costs to provide basic training for new U.S. Customs and Border Protection Officers and Border Patrol agents.

DEPARTMENT OF EDUCATION

EDUCATION JOBS FUND

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

(1) ALLOCATION OF FUNDS.—

(A) Funds appropriated under this heading shall be available only for allocation by the Secretary of Education (in this heading referred to as the "Secretary") in accordance with subsections (a), (b), (d), (e), and (f) of section 14001 of division A of Public Law 111–5 and subparagraph (B) of this paragraph, except that the amount reserved under such subsection (b) shall not exceed $1,000,000 and such subsection (f) shall be applied by substituting "one year" for "two years".

(B) Prior to allocating funds to States under section 14001(d) of division A of Public Law 111–5, the Secretary shall allocate 0.5 percent to the Secretary of the Interior for schools operated or funded by the Bureau of Indian Affairs on the basis of the schools' respective needs for activities consistent with this heading under such terms and conditions as the Secretary of the Interior may determine.

(2) RESERVATION.—A State that receives an allocation of funds appropriated under this heading may reserve not more than 2 percent for the administrative costs of carrying out its responsibilities with respect to those funds.

(3) AWARDS TO LOCAL EDUCATIONAL AGENCIES.—

(A) Except as specified in paragraph (2), an allocation of funds to a State shall be used only for awards to local educational agencies for the support of elementary and secondary education in accordance with paragraph (5) for the 2010–2011 school year (or, in the case of reallocations made under section 14001(f) of division A of Public Law 111–5, for the 2010–2011 or the 2011–2012 school year).

(B) Funds used to support elementary and secondary education shall be distributed through a State's primary elementary and secondary funding formulae or based on local educational agencies' relative shares of funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the most recent fiscal year for which data are available.

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

(4) COMPLIANCE WITH EDUCATION REFORM ASSURANCES.—For purposes of awarding funds appropriated under this heading, any State that has an approved application for Phase II of the State Fiscal Stabilization Fund that was submitted in accordance with the application notice published in the Federal Register on November 17, 2009 (74 Fed. Reg. 59142) shall be deemed to be in compliance with subsection (b) and paragraphs (2) through (5) of subsection (d) of section 14005 of division A of Public Law 111–5.

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

(A) may be used only for compensation and benefits and other expenses, such as support services, necessary to retain existing employees, to recall or rehire former employees, and to hire new employees, in order to provide early childhood, elementary, or secondary educational and related services; and

(B) may not be used for "general administrative expenses" or for "other support services expenditures" as those terms were defined by the National Center for Education Statistics in its Common Core of Data as of the date of enactment of this Act.

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

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

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

(C) reduce or retire debt obligations incurred by the State; or

(D) supplant State funds in a manner that has the effect of reducing or retiring debt obligations incurred by the State.

(7) DEADLINE FOR AWARD.—The Secretary shall award funds appropriated under this heading not later than 45 days after the date of the enactment of this Act to States that have submitted applications meeting the requirements applicable to funds under this heading. The Secretary shall not require information in applications beyond what is necessary to determine compliance with applicable provisions of law.

(8) ALTERNATE DISTRIBUTION OF FUNDS.—If, within 30 days after the date of the enactment of this Act, a Governor has not submitted an approvable application, the Secretary shall provide for funds allocated to that State to be distributed to another entity or other entities in the State (notwithstanding section 14001(e) of division A of Public Law 111–5) for support of elementary and secondary education, under such terms and conditions as the Secretary may establish, provided that all terms and conditions that apply to funds appropriated under

this heading shall apply to such funds distributed to such entity or entities. No distribution shall be made to a State under this paragraph, however, unless the Secretary has determined (on the basis of such information as may be available) that the requirements of clauses (i), (ii), or (iii) of paragraph 10(A) are likely to be met, notwithstanding the lack of an application from the Governor of that State.

(9) LOCAL EDUCATIONAL AGENCY APPLICATION.—Section 442 of the General Education Provisions Act shall not apply to a local educational agency that has previously submitted an application to the State under title XIV of division A of Public Law 111–5. The assurances provided under that application shall continue to apply to funds awarded under this heading.

(10) MAINTENANCE OF EFFORT.—

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

(i) for State fiscal year 2011, the State will maintain State support for elementary and secondary education (in the aggregate or on the basis of expenditures per pupil) and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at not less than the level of such support for each of the two categories, respectively, for State fiscal year 2009;

(ii) for State fiscal year 2011, the State will maintain State support for elementary and secondary education and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at a percentage of the total revenues available to the State that is equal to or greater than the percentage provided for each of the two categories, respectively, for State fiscal year 2010; or

(iii) in the case of a State in which State tax collections for calendar year 2009 were less than State tax collections for calendar year 2006, for State fiscal year 2011 the State will maintain State support for elementary and secondary education (in the aggregate) and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students)—

(I) at not less than the level of such support for each of the two categories, respectively, for State fiscal year 2006; or

(II) at a percentage of the total revenues available to the State that is equal to or greater than the percentage provided for each of the two categories, respectively, for State fiscal year 2006.

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

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

(A) Notwithstanding paragraph (3)(B), funds used to support elementary and secondary education shall be distributed based on local educational agencies' relative shares of funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the most recent fiscal year which data are available. Funds distributed pursuant to this paragraph shall be used to supplement and not supplant State formula funding that is distributed on a similar basis to part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.).

(B) The Secretary shall not allocate funds to the State of Texas under paragraph (1) unless the Governor of the State provides an assurance to the Secretary that the State will for fiscal years 2011, 2012, and 2013 maintain State support for elementary and secondary education at a percentage of the total revenues available to the State that is equal to or greater than the percentage provided for such purpose for fiscal year 2011 prior to the enactment of this Act.

(C) Notwithstanding paragraph (8), no distribution shall be made to the State of Texas or local education agencies therein unless the Governor of Texas makes an assurance to the Secretary that the requirements in paragraphs (11)(A) and (11)(B) will be met, notwithstanding the lack of an application from the Governor of Texas.

STUDENT FINANCIAL ASSISTANCE

For an additional amount for "Student Financial Assistance", $4,950,000,000, to remain available through September 30, 2011, to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965: *Provided*, That section 3002 shall not apply to the amount under this heading.

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, ARMY

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

GENERAL PROVISIONS—THIS CHAPTER

SEC. 4101. For an additional amount for the emergency food assistance program as authorized by section 27(a) of the Food and Nutrition Act of 2008 (7 U.S.C. 2036(a)) and section 204(a)(1) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)(1)),

$50,000,000: *Provided*, That section 3002 shall not apply to the amount in this section.

(RESCISSION)

SEC. 4102. There is rescinded from accounts under the heading "Department of Agriculture—Natural Resources Conservation Service", $69,900,000, to be derived from the unobligated balances of funds that were provided for such accounts in prior appropriation Acts (other than Public Law 111–5) and that were designated by the Congress in such Acts as an emergency requirement pursuant to a concurrent resolution on the budget or the Balanced Budget and Emergency Deficit Control Act of 1985.

(RESCISSION)

SEC. 4103. There is rescinded from accounts under the heading "Department of Agriculture—Rural Development", $122,000,000, to be derived from the unobligated balances of funds that were provided for such accounts in prior appropriation Acts (other than Public Law 111–5) and that were designated by the Congress in such Acts as an emergency requirement pursuant to a concurrent resolution on the budget or the Balanced Budget and Emergency Deficit Control Act of 1985.

(RESCISSION)

SEC. 4104. Of the funds made available for "Department of Agriculture—Rural Utilities Service—Distance Learning, Telemedicine, and Broadband Program" in title I of division A of Public Law 111–5 (123 Stat. 118), $300,000,000 is rescinded.

(RESCISSION)

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

(RESCISSION)

SEC. 4106. Of the unobligated balances available for "Department of Agriculture—Food and Nutrition Service—Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)" as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $125,000,000 is rescinded: *Provided*, That section 3002 shall not apply to the amount in this section.

(RESCISSION)

SEC. 4107. Of the funds appropriated under the heading "Department of Commerce—National Institute of Standards and Technology—Construction of Research Facilities" in title II of division A of Public Law 111–5 (123 Stat. 129) $15,000,000 is rescinded.

(RESCISSION)

SEC. 4108. Of the funds made available for "Department of Commerce—National Telecommunications and Information Administra-

tion—Broadband Technology Opportunities Program" in title II of division A of Public Law 111–5, $302,000,000 is rescinded.

SEC. 4109. For an additional amount for the Department of Justice for necessary expenses for increased law enforcement activities related to Southwest border enforcement, $201,000,000, to remain available until September 30, 2011: *Provided*, That funds shall be distributed to the following accounts and in the following specified amounts:

(1) "Administrative Review and Appeals", $2,118,000;

(2) "Detention Trustee", $7,000,000;

(3) "Legal Activities, Salaries and Expenses, General Legal Activities", $3,862,000;

(4) "Legal Activities, Salaries and Expenses, United States Attorneys", $9,198,000;

(5) "United States Marshals Service, Salaries and Expenses", $29,651,000;

(6) "United States Marshals Service, Construction", $8,000,000;

(7) "Interagency Law Enforcement, Interagency Crime and Drug Enforcement", $21,000,000;

(8) "Federal Bureau of Investigation, Salaries and Expenses", $25,262,000;

(9) "Drug Enforcement Administration, Salaries and Expenses", $35,805,000;

(10) "Bureau of Alcohol, Tobacco, Firearms and Explosives, Salaries and Expenses", $39,104,000; and

(11) "Federal Prison System, Salaries and Expenses", $20,000,000.

SEC. 4110. Section 8005 of the Department of Defense Appropriations Act, 2010 (division A of Public Law 111–118) is amended by striking the dollar amount specified in such section and inserting "$6,000,000,000": *Provided*, That section 3002 shall not apply to the amount in this section: *Provided further*, That the amendment made by this section shall apply in lieu of any amendment made by another provision of this Act to such dollar amount.

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

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

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

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

(4) the authority provided in section 8011 of Public Law 111–118 and section 128(a) of Public Law 111–84, as amended by this section, shall satisfy, with respect to the procurement of F/A–18E, F/A–18F, and EA–18G aircraft, the requirements of sections 2306b(i)(3) and 2306b(l)(3) of title 10, United States

Code, that a multiyear contract be authorized by law in an appropriations Act and an Act other than an appropriations Act.

SEC. 4112. For all major defense acquisition programs for which the Department of Defense plans to proceed to source selection during the current fiscal year and fiscal year 2011, the Secretary of Defense shall perform an assessment of such programs and the proposals of all bidders to determine whether or not the costs are realistic and reasonable with respect to expected industry development and production costs: *Provided*, That the assessments shall address whether the programs and proposals of all bidders are at fair market value: *Provided further*, That the Secretary of Defense shall provide an assessment of the programs and proposals of all bidders to determine the number of jobs, including an estimate of development and direct manufacturing jobs, supported or lost in the United States of America: *Provided further*, That jobs supported or lost shall be measured as full time equivalent personnel: *Provided further*, That the Secretary of Defense shall provide a report, in consultation with the Secretary of Labor, containing the results of these assessments to the congressional defense committees not later than 60 days after enactment of this Act and on a quarterly basis thereafter.

(INCLUDING RESCISSION)

SEC. 4113. (a) In addition to the amounts provided elsewhere in this Act, there is appropriated $300,000,000 for an additional amount for "Operation and Maintenance, Defense-Wide", to remain available until expended. Such funds may be available for the Office of Economic Adjustment, notwithstanding any other provision of law, for transportation infrastructure improvements associated with medical facilities related to recommendations of the Defense Base Closure and Realignment Commission.

(b) Of the funds appropriated for "Defense Health Program" in title VI of division A of Public Law 111–118, $300,000,000 is rescinded, to be derived from amounts for operation and maintenance.

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

(RESCISSION)

SEC. 4114. (a) Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are rescinded from the following accounts in the specified amounts:

"Shipbuilding and Conversion, Navy, 2006/2010", $107,000,000;

"Aircraft Procurement, Army, 2008/2010", $21,000,000;

"Procurement of Weapons and Tracked Combat Vehicles, Army, 2008/2010", $21,000,000;

"Procurement of Ammunition, Army, 2008/2010", $17,000,000;

"Other Procurement, Army, 2008/2010", $75,000,000;

"Aircraft Procurement, Navy, 2008/2010", $166,000,000;

"Weapons Procurement, Navy, 2008/2010", $26,000,000;

"Other Procurement, Navy, 2008/2010", $42,000,000;

"Procurement, Marine Corps, 2008/2010", $13,000,000;

"Aircraft Procurement, Air Force, 2008/2010", $102,000,000;

"Missile Procurement, Air Force, 2008/2010", $28,000,000;
"Procurement of Ammunition, Air Force, 2008/2010", $7,000,000;
"Other Procurement, Air Force, 2008/2010", $130,000,000;
"Procurement, Defense-Wide, 2008/2010", $33,000,000;
"Research, Development, Test and Evaluation, Army, 2009/2010", $76,000,000;
"Research, Development, Test and Evaluation, Navy, 2009/2010", $131,000,000;
"Research, Development, Test and Evaluation, Air Force, 2009/2010", $164,000,000;
"Research, Development, Test and Evaluation, Defense-Wide, 2009/2010", $137,000,000;
"Operation, Test and Evaluation, Defense, 2009/2010", $1,000,000;
"Operation and Maintenance, Army, 2010", $154,000,000;
"Operation and Maintenance, Navy, 2010", $155,000,000;
"Operation and Maintenance, Marine Corps, 2010", $25,000,000;
"Operation and Maintenance, Air Force, 2010", $155,000,000;
"Operation and Maintenance, Defense-Wide, 2010", $126,000,000;
"Operation and Maintenance, Army Reserve, 2010", $12,000,000;
"Operation and Maintenance, Navy Reserve, 2010", $6,000,000;
"Operation and Maintenance, Marine Corps Reserve, 2010", $1,000,000;
"Operation and Maintenance, Air Force Reserve, 2010", $14,000,000;
"Operation and Maintenance, Army National Guard, 2010", $28,000,000; and
"Operation and Maintenance, Air National Guard, 2010", $27,000,000.

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

(RESCISSIONS)

SEC. 4115. (a) Of the funds appropriated in the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), the following funds are rescinded from the following accounts in the specified amounts:

"Operation and Maintenance, Army, 2009/2010", $113,500,000;
"Operation and Maintenance, Navy, 2009/2010", $34,000,000;
"Operation and Maintenance, Marine Corps, 2009/2010", $7,000,000;
"Operation and Maintenance, Air Force, 2009/2010", $61,000,000;
"Operation and Maintenance, Army Reserve, 2009/2010", $3,500,000;
"Operation and Maintenance, Navy Reserve, 2009/2010", $8,000,000;
"Operation and Maintenance, Marine Corps Reserve, 2009/2010", $1,000,000;

"Operation and Maintenance, Air Force Reserve, 2009/2010", $2,000,000;

"Operation and Maintenance, Army National Guard, 2009/2010", $1,000,000;

"Operation and Maintenance, Air National Guard, 2009/2010", $2,500,000; and

"Defense Health Program, 2009/2010", $27,000,000.

(b) Of the funds appropriated in the Supplemental Appropriations Act, 2008 (Public Law 110–252), the following funds are rescinded from the following account in the specified amount:

"Procurement, Marine Corps, 2008/2010", $177,180,000.

(INCLUDING TRANSFER OF FUNDS AND RESCISSIONS)

SEC. 4116. (a) In addition to amounts provided elsewhere in this Act, there is appropriated $163,000,000 for an additional amount for "Operation and Maintenance, Defense-Wide", to remain available until expended: *Provided*, That such funds shall only be available to the Secretary of Defense, acting through the Office of Economic Adjustment of the Department of Defense, or for transfer to the Secretary of Education, notwithstanding any other provision of law, to make grants, conclude cooperative agreements, or supplement other Federal funds to construct, renovate, repair, or expand elementary and secondary public schools on military installations in order to address capacity or facility condition deficiencies at such schools: *Provided further*, That in making such funds available, the Office of Economic Adjustment or the Secretary of Education shall give priority consideration to those military installations with schools having the most serious capacity or facility condition deficiencies as determined by the Secretary of Defense.

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

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

(3) Of the funds appropriated for "Other Procurement, Army" in title III of division C of Public Law 110–329, $87,000,000 is rescinded.

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

SEC. 4117. (a) SPECIFIC APPROPRIATION OR CONTRIBUTION.—Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended—

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

"(b) SPECIFIC APPROPRIATION OR CONTRIBUTION.—

"(1) IN GENERAL.—No guarantee shall be made unless—

"(A) an appropriation for the cost of the guarantee has been made;

"(B) the Secretary has received from the borrower a payment in full for the cost of the guarantee and deposited the payment into the Treasury; or

"(C) a combination of one or more appropriations under subparagraph (A) and one or more payments from the borrower under subparagraph (B) has been made that is sufficient to cover the cost of the guarantee.

"(2) LIMITATION.—The source of payments received from a borrower under paragraph (1)(B) or (C) shall not be a loan or other debt obligation that is made or guaranteed by the Federal Government."; and

(2) by adding at the end the following:

"(l) CREDIT REPORT.—If, in the opinion of the Secretary, a third-party credit rating of the applicant or project is not necessary for the Secretary to begin review of an application, the project costs are not projected to exceed $100,000,000, and the applicant agrees to accept the credit rating assigned to the applicant by the Secretary, the Secretary may waive an otherwise applicable requirement (including any requirement described in part 609 of title 10, Code of Federal Regulations) to provide a third-party credit report with an application, provided that the Secretary requires a third party credit report prior to issuance of a conditional commitment for a guarantee.

"(m) MULTIPLE SITES.—Notwithstanding any contrary requirement (including any provision under part 609 of title 10, Code of Federal Regulations) an eligible project may be located on two or more non-contiguous sites in the United States.".

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

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

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

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

"(4) Efficient end-use energy technologies.

"(5) Combined heat and power or industrial waste energy recovery projects.".

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

"(f) FEES.—The Secretary is authorized to charge and collect fees from applicants for or recipients of an award or loan to cover administrative costs. For any given loan or award, such fees shall not exceed $100,000 or 10 basis points of the loan or award. In addition to the foregoing fees, the Secretary may require applicants for and recipients of an award or loan under this section to pay directly, or through the payment of fees to be used by the Secretary to pay, all fees and expenses of agents, consultants, and professional advisors retained by the Secretary in connection with activities authorized under this section.".

(RESCISSIONS)

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

(1) $35,000,000, to be derived from unobligated balances made available under "Mississippi River and Tributaries" in Public Law 110–329.

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

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

(4) $2,199,629, to be derived from unobligated balances made available under "Construction" in Public Law 109–148.

(RESCISSIONS)

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

(1) $150,000,000, to be derived from unobligated balances of funds made available under the heading "Corps of Engineers, Civil—Construction" in prior appropriations Acts (other than Public Law 111–5) for projects and activities authorized under section 205 of the Flood Control Act of 1948, section 1135 of the Water Resources Development Act of 1986, and section 206 of the Water Resources Act of 1996.

(2) $40,000,000, to be derived from unobligated balances of funds made available under the heading "Corps of Engineers, Civil—Construction" in prior appropriations Acts, other than funds designated by the Congress as an emergency requirement pursuant to a concurrent resolution on the budget or the Balanced Budget and Emergency Deficit Control Act of 1985.

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

(RESCISSIONS)

SEC. 4120. (a) There are rescinded the following amounts from the specified accounts:

(1) $78,000,000, to be derived from unobligated balances of funds made available under the heading "Department of Energy—Energy Efficiency and Renewable Energy" in division C of Public Law 111–8 and Public Law 111–85 for biomass and biorefinery research, development, and demonstration.

(2) $71,000,000, to be derived from unobligated balances of funds made available in prior appropriations Acts under the heading "Department of Energy—Strategic Petroleum Reserve", including $14,493,000 provided in Public Law 110–161 for new site land acquisition activities; $31,507,000 provided in Public Law 111–8 for new site expansion activities, beyond land acquisition; and $25,000,000 provided in Public Law 111–85.

(3) $20,000,000, to be derived from unobligated balances of funds made available in prior appropriations Acts under the heading "Department of Energy—Nuclear Energy".

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

(RESCISSION)

SEC. 4121. Of the unobligated balances of funds provided under the heading "Nuclear Regulatory Commission" in prior appropria-

tions Acts, $18,000,000 is permanently rescinded: *Provided*, That section 3002 shall not apply to the amount in this section.

(RESCISSION)

SEC. 4122. From unobligated balances of prior year appropriations made available to "Domestic Nuclear Detection Office—Systems Acquisition", $50,000,000 is rescinded: *Provided*, That section 3002 shall not apply to the amount in this section.

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

(b) The building project survey report shall be prepared by the Administrator of General Services in consultation with the Director of the Federal Bureau of Investigation, and each strategy described in the report shall contain, at a minimum, an estimated cost, a financing and development plan, a budgetary and financial impact analysis, a procurement and implementation plan, an analysis of security and information technology issues specific to the Federal Bureau of Investigation, and a schedule.

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

(RESCISSION)

SEC. 4124. There are permanently rescinded from "General Services Administration—Real Property Activities—Federal Building Fund", $75,000,000 from Rental of Space and $25,000,000 from Building Operations, to be derived from unobligated balances that were provided in previous appropriations Acts: *Provided*, That section 3002 shall not apply to the amount in this section.

(INCLUDING TRANSFER OF FUNDS)

SEC. 4125. (a) The Secretary of Homeland Security may transfer to the Secretary of the Interior amounts available for environmental mitigation requirements for "U.S. Customs and Border Protection—Border Security Fencing, Infrastructure, and Technology" for fiscal year 2009 or thereafter, for use by the Secretary of the Interior under laws administered by such Secretary to mitigate adverse environmental impacts, including impact on species listed under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) resulting from construction, operation, and maintenance activities related to border security.

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

(c) Any funds transferred under this section shall be used in accordance with an agreement between the Secretaries.

(d) Not later than September 30, 2010, and on an annual basis thereafter, the Secretary of the Interior shall submit to the Committees on Appropriations of the Senate and the House of Representatives a report that describes in detail the actions taken in the preceding year with amounts transferred under this section.

(RESCISSION)

SEC. 4126. From unobligated balances of prior year appropriations made available for "Transportation Security Administration—Aviation Security" in chapter 5 of title III of Public Law 110–28, $6,600,000 is rescinded.

(RESCISSION)

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

(RESCISSION)

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

(RESCISSION)

SEC. 4129. From unobligated balances of prior year appropriations made available for "Federal Emergency Management Agency—Administrative and Regional Operations" in chapter 4 of title II of Public Law 109–234, $36,000,000 is rescinded.

(RESCISSION)

SEC. 4130. From unobligated balances of prior year appropriations made available for "Domestic Nuclear Detection Office—Research, Development, and Operations" in chapter 5 of title III of Public Law 110–28, $3,800,000 is rescinded.

(RESCISSION)

SEC. 4131. From unobligated balances of prior year appropriations made available to "U.S. Customs and Border Protection—Border Security Fencing, Infrastructure, and Technology", $200,000,000 is rescinded: *Provided*, That section 3002 shall not apply to the amount in this section.

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

(RESCISSION)

SEC. 4133. Of the funds made available for "Bureau of Land Management—Management of Lands and Resources" in title VII of division A of Public Law 111–5, $6,400,000 is rescinded.

(RESCISSION)

SEC. 4134. Of the funds made available for "Bureau of Land Management—Construction" in title VII of division A of Public Law 111–5, $3,600,000 is rescinded.

(RESCISSION)

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

(RESCISSION)

SEC. 4136. Of the funds made available for "United States Geological Survey—Surveys, Investigations, and Research" in title VII of division A of Public Law 111–5, $5,000,000 is rescinded.

(RESCISSION)

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

(RESCISSION)

SEC. 4138. Of the funds made available for "Bureau of Indian Affairs—Indian Guaranteed Loan Program Account" in title VII of division A of Public Law 111–5, $6,820,000 is rescinded.

(RESCISSION)

SEC. 4139. Of the funds made available for "Environmental Protection Agency—Hazardous Substance Superfund" in title VII of division A of Public Law 111–5, $6,000,000 is rescinded.

(RESCISSION)

SEC. 4140. Of the funds made available for "Environmental Protection Agency—Leaking Underground Storage Tank Trust Fund Program" in title VII of division A of Public Law 111–5, $9,200,000 is rescinded.

(RESCISSION)

SEC. 4141. Of the funds made available for transfer in title VII of division A of Public Law 111–5, "Environmental Protection Agency—Environmental Programs and Management", $13,000,000 is rescinded.

(RESCISSION)

SEC. 4142. Of the funds made available for "Department of Agriculture—Forest Service—Capital Improvement and Maintenance" in title VII of division A of Public Law 111–5, $20,000,000 is rescinded.

(RESCISSION)

SEC. 4143. Of the funds transferred in section 703 of title VII of division A of Public Law 111–5, "Department of the Interior—Working Capital Fund", $4,400,000 is permanently rescinded.

(RESCISSION)

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

(RESCISSION)

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

(RESCISSION)

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

(RESCISSION)

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

SEC. 4148. Section 11(c)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1340(c)(1)) is amended in the fourth sentence by striking "within thirty days of its submission," and inserting the following: "within 90 days of its submission or within such additional time as the Secretary determines is necessary to complete any environmental, safety, or other reviews (in the case of leases issued pursuant to a sale held after March 17, 2010), or within 90 days of its submission or, with the consent of the holder of the lease, within such additional time as the Secretary determines is necessary to complete any environmental, safety, or other reviews (in the case of leases issued pursuant to a sale held on or before March 17, 2010),".

SEC. 4149. From funds appropriated in this Act under the heading "Department of Health and Human Services—Office of the Secretary—Public Health and Social Services Emergency Fund", the Secretary of Health and Human Services shall make grants to States, in the amount needed to defray actual costs, for the purpose of assisting school districts serving significant numbers of children who entered the United States from Haiti during the period January 12, 2010, through May 30, 2010, and who are United States citizens or Haitian nationals, to meet the educational and related needs of such children.

(RESCISSION)

SEC. 4150. The unobligated balance of funds appropriated in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995 (Public Law 103–333; 108 Stat. 2574) under the heading "Public Health and Social Services Emergency Fund" is rescinded.

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

SEC. 4152. (a) OIL SPILL UNEMPLOYMENT ASSISTANCE.—Upon a determination by the President that additional resources are necessary to respond to an incident related to a spill of national significance declared under the National Contingency Plan provided for under section 105 of the Comprehensive Environmental Re-

sponse, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) ("covered incident"), the Secretary of Labor is authorized to provide to any individual unemployed as a result of such covered incident such benefit assistance as the Secretary deems appropriate while such individual is unemployed for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of the Internal Revenue Code of 1986) or waiting period credit. Such assistance as the Secretary shall provide shall be available to an individual as long as the individual's unemployment caused by such covered incident continues or until the individual is reemployed in a suitable position, but no longer than 26 weeks after the individual's unemployment that resulted from the covered incident. Oil spill unemployment assistance payments for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the individual's State. The Secretary is directed to provide such assistance through agreements with States that, in the Secretary's judgment, have an adequate system for administering such assistance through existing State agencies.

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

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

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

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

(B) have no rights to regular compensation or extended compensation with respect to a week under State law or any other State unemployment compensation law or to compensation under any other Federal law; and

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

(2) refer individuals receiving oil spill unemployment assistance under this section to one-stop delivery systems established under section 134(c) of the Workforce Investment Act of 1998 for reemployment services or training provided under such Act, the Wagner-Peyser Act, or other Federal law.

(d) WEEKLY BENEFIT AMOUNT, DUE PROCESS RIGHTS.—For purposes of any agreement under this section, the terms and conditions of Federal law and regulations which apply to claims for disaster unemployment assistance and to the payment thereof shall apply to claims for oil spill unemployment assistance and the payment thereof, except where otherwise inconsistent with the provisions of this section or with the regulations or operating instructions of the Secretary promulgated to carry out this section.

(e) UNAUTHORIZED ALIENS INELIGIBLE.—A State shall require as a condition of oil spill unemployment assistance under this section that each alien who receives such assistance must be legally authorized to work in the United States, as defined for purposes of the Federal Unemployment Tax Act (26 U.S.C. 3101 et seq.). In de-

termining whether an alien meets the requirements of this subsection, a State must follow the procedures provided in section 1137(d) of the Social Security Act (42 U.S.C. 1320b–7(d)).

(f) FRAUD AND OVERPAYMENTS.—

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

(A) shall be ineligible for further oil spill unemployment assistance under this section in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

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

(2) REPAYMENT.—In the case of an individual who has received oil spill unemployment assistance under this section to which such individual was not entitled, the State shall require such individual to repay the amount of such oil spill unemployment assistance to the State agency, except that the State agency may waive such repayment if it determines that—

(A) the payment of such oil spill unemployment assistance was without fault on the part of any such individual; and

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

(3) PREVENTION AND DETECTION BY STATE AGENCY.—The State agency shall submit a weekly payment file of all benefit payments to the National Directory of New Hires, and shall make arrangements for the cross match of the benefit payment recipients' social security numbers with the National Directory of New Hires Reported Hire and Benefit payment databases a minimum of once each week and investigate all matches.

(4) RECOVERY BY STATE AGENCY.—

(A) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any oil spill unemployment assistance payable to such individual under this section or from any unemployment compensation payable to such individual under any State or Federal unemployment compensation law administered by the State agency or under any other State or Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individual received the payment of the oil spill unemployment assistance to which such individual was not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(B) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a deter-

mination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(5) REVIEW.—Any determination by a State agency under this subsection shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

(g) PAYMENTS TO STATES.—

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

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

(h) FINANCING.—

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

(2) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this section. Upon receipt of the certification from the Secretary, the Secretary of the Treasury shall make payments to the State in accordance with such certification, by transfers from the general fund of the United States Treasury.

(i) RELATIONSHIP WITH INCOME REPLACEMENT PAYMENTS FOR LOST WAGES OR SELF EMPLOYMENT INCOME BY THE RESPONSIBLE PARTY.—

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

(A) the total amount of unemployment assistance that an individual is entitled to receive under subsection (a), as determined by the State agency; or

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

(2) If a responsible party or the Oil Spill Liability Trust Fund under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) makes a payment to the individual for lost wages related to unemployment resulting from a covered incident, and an individual has previously received unemployment assistance under this section for such period of unemployment, the responsible party or the Oil Spill Liability Trust Fund shall subtract from such payment the amount of such unemployment assistance and shall reimburse such subtracted amount to the United States for deposit in the general fund of the Treasury. If a responsible party fails to reimburse such subtracted amount pursuant to this paragraph, the Secretary of the Treasury shall request the Attorney General to bring a civil action against the responsible party or a guarantor in an appro-

priate district court to recover the amount of the demand, plus all costs incurred in obtaining payment including prejudgment interest, attorneys fees, and any other administrative and adjudicative costs involved.

(3) If a responsible party or the Oil Spill Liability Trust Fund has made a payment to an individual for lost wages related to unemployment resulting from a covered incident, the amount of such payment shall be subtracted from the unemployment assistance under this section that the individual subsequently receives for such period of unemployment.

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

(5) Any individual, as a condition of receiving oil spill unemployment assistance, shall provide informed consent to the sharing of benefit information between the State agency and the responsible party (or its claim processor) or the Oil Spill Liability Trust Fund, as appropriate, for the purpose of determining eligibility and to avoid duplicate payments as deemed necessary.

(6) If the Secretary determines the actions described in paragraphs (2) through (5) have not succeeded in avoiding duplicate payments, the Secretary may take such other actions as the Secretary determines necessary in order to avoid duplicate payments, consistent with the responsible party or the Oil Spill Liability Trust Fund making payments to individuals for lost wages related to unemployment resulting from a covered incident.

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

(A) the coordination of payment of oil spill unemployment assistance under this section and payments for lost wages and self employment income by the responsible party or the Oil Spill Liability Trust Fund so as to minimize duplicate payments to claimants, including methods to—

(i) prevent duplicate payments, such as developing methods for claims processing that identify eligibility for both types of payments so as to ensure the individual receives no more than the amount specified in paragraph (1) of this subsection;

(ii) document that individuals who received either oil spill unemployment assistance or payments by the responsible party or the Oil Spill Liability Trust Fund

prior to execution of the agreement were unemployed as a result of the oil spill; and

(iii) ensure prompt and accurate payment of oil spill unemployment assistance under this section or payment of claims by the responsible party or the Oil Spill Liability Trust Fund;

(B) sharing and protecting information regarding an individual's claim for oil spill unemployment assistance or claims for replacement of wages that is necessary to coordinate benefit payments and claims by the responsible party or the Oil Spill Liability Trust Fund under subparagraph (A);

(C) reimbursement by the responsible party to the Federal Government and States for payment of oil spill unemployment assistance to individuals whose unemployment was the result of a covered incident and for the administration of this program, which may include the responsible party developing a special fund for use by the States to pay benefits under this program, in accordance with the process developed under subparagraph (A) with a periodic reconciliation process to make future claims unnecessary;

(D) ensuring that the responsible party shall make benefit information available to government organizations upon request, subject to the safeguards applicable to confidential unemployment compensation information in Federal law and regulations, which shall apply to the Secretary, the State agencies administering the oil spill unemployment assistance program, the responsible party, and the Oil Spill Liability Trust Fund; and

(E) developing similar agreements with the responsible party to coordinate payments of unemployment compensation under State law related to a covered incident and payments made by the responsible party or the Oil Spill Liability Trust Fund.

(8) The procedures developed under this section may be employed by States to coordinate payments of unemployment compensation under State law related to a covered incident and payments made by the responsible party or the Oil Spill Liability Trust Fund.

(j) LIABILITY OF RESPONSIBLE PARTIES.—Each responsible party under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) is liable for any costs, net of any payments by the responsible party to the United States under subsection (i), incurred by the United States under this section and shall, upon the demand of the Secretary of the Treasury, reimburse the general fund of the Treasury for these costs as well as the costs of the United States in administering its responsibilities under this section. If a responsible party fails to pay a demand of the Secretary of the Treasury pursuant to this subsection, the Secretary shall request the Attorney General to bring a civil action against the responsible party or a guarantor in an appropriate district court to recover the amount of the demand, plus all costs incurred in obtaining payment including prejudgment interest, attorneys fees, and any other administrative and adjudicative costs involved. Such reimbursement shall be without regard to

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

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

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

(1) DUPLICATE PAYMENTS.—The term "duplicate payments" includes any payment that would cause the individual to receive payments in excess of the amount determined under paragraph (1) of subsection (i).

(2) RESPONSIBLE PARTY.—The term "responsible party" means one or more responsible parties.

(3) SECRETARY.—The term "Secretary" means the Secretary of Labor.

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

(5) STATE AGENCY.—The term "State agency" means the State agency which administers the unemployment compensation law of the State approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1986.

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

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and"; and

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

"(5) to provide assistance to the Governor of any State within the boundaries of an area that is the subject of a Presidential determination that additional resources are necessary to respond to an incident related to a spill of national significance declared under the National Contingency Plan provided for under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) ('covered incident') to provide oil spill relief employment in the area.".

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

"(h) OIL SPILL RELIEF EMPLOYMENT ASSISTANCE REQUIREMENTS.—

"(1) IN GENERAL.—Funds made available under subsection (a)(5)—

"(A) shall be used to provide oil spill relief employment on projects involving the cleaning, restoration, renovation, repair and reconstruction of lands, marshes, waters, structures, and facilities located within the area of the covered incident, as well as offshore areas related to such incident, and projects that provide food, clothing, shelter, and other humanitarian assistance to individuals harmed by the covered incident;

"(B) may be expended through public and private agencies and organizations engaged in such projects;

"(C) may be expended to provide employment and training activities;

"(D) may be expended to provide personal protective equipment to workers engaged in oil spill relief employment described in subparagraph (A);

"(E) may be used to increase the capacity of States to make available the full range of services authorized under this title and provide information (in languages appropriate to the individuals served) about, and access to, the variety of public and private services available to individuals adversely affected by the covered incident in One-Stop Career Centers and other access points (including other public facilities, mobile service delivery units, and social services offices); and

"(F) may be used to provide temporary employment by public sector entities for a period not to exceed 6 months, in addition to the oil spill relief employment described in subparagraph (A).

"(2) ELIGIBILITY.—An individual shall be eligible for services under subsection (a)(5) if such individual is temporarily or permanently laid off as a consequence of the covered incident described in such subsection, is a dislocated worker, is a long-term unemployed individual, or meets such other criteria as the Secretary may establish.

"(3) LIMITATIONS ON OIL SPILL RELIEF EMPLOYMENT ASSISTANCE.—No individual shall be employed under subsection (a)(5) for more than 6 months for oil spill relief employment related to recovery from a single covered incident. The Secretary may, upon reviewing a State's request, extend such employment related to recovery from a single covered incident for up to an additional 6 months.

"(4) REIMBURSEMENT.—Each responsible party under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) is liable for any costs incurred by the United States under this subsection or subsection (a)(5) and shall, upon the demand of the Secretary of the Treasury, reimburse the general fund of the Treasury for the costs incurred under this subsection or subsection (a)(5) as well as the costs of the United States in administering its responsibilities under this subsection or subsection (a)(5). If a responsible party fails to pay a demand of the Secretary of the Treasury pursuant to this subsection or subsection (a)(5), the Secretary shall request the Attorney General to bring a civil action against the responsible party or a guarantor in an appropriate district court to recover the amount of the demand, plus all costs incurred in obtaining payment including prejudgment interest, attorney's fees, and any other administrative and adjudicative costs involved. Such reimbursement shall be without regard to limits of liability under section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704).

"(5) USE OF AVAILABLE FUNDS.—Funds appropriated for fiscal years 2009 and 2010 and remaining available for obligation by the Secretary to provide any assistance authorized under this section shall be available to assist workers affected by a cov-

ered incident, including workers who have relocated from areas in which a covered incident has been declared. Under such conditions as the Secretary may approve, any State may use funds that remain available for expenditure under any grants awarded to the State under this section to provide any assistance authorized under this subsection. Funds used pursuant to the authority provided under this paragraph shall be subject to the reimbursement requirements described in paragraph (4).

"(6) REQUIREMENTS FOR GRANT APPLICATIONS.—An application submitted to the Secretary under this subsection shall include a detailed description of—

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

"(i) provide affected individuals with information, in languages appropriate to the individuals served, about the range of available services; and

"(ii) provide affected individuals with access to the range of needed services;

"(B) how the State will prioritize individuals who are temporarily or permanently laid off as a consequence of the covered incident in the assignment of temporary employment positions; and

"(C) any other supporting information the Secretary may require.".

(c) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect immediately upon enactment of this Act and shall apply to all responsible parties under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), including any party determined to be liable under such Act for any incident that occurred prior to the enactment of this Act.

(d) APPROPRIATION.—There is appropriated $50,000,000 for an additional amount for "Department of Labor—Employment and Training Administration—Training and Employment Services", to carry out section 173(a)(5) and (h) of the Workforce Investment Act of 1998 (29 U.S.C. 29l8(a)(5) and (h)) ("WIA") as amended by this Act, to remain available through June 30, 2011: *Provided*, That funding shall be available upon enactment of this Act, notwithstanding section 189(g)(l) of WIA.

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

(b) A responsible party under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) shall, upon the demand of the Secretary of the Treasury, reimburse the general fund of the Treasury for all or a

portion of the additional amount appropriated herein, as determined by the Secretary of the Treasury.

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

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

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

(RESCISSION)

SEC. 4155. Of the unobligated balance of funds appropriated without fiscal year limitation under the heading "Department of Health and Human Services—Office of the Secretary—Public Health and Social Services Emergency Fund" in fiscal years 2006 through 2010 to prepare for and respond to an influenza pandemic (including any amount not yet designated by the President as emergency funds) and the unobligated balance of funds transferred to "Public Health and Social Services Emergency Fund" pursuant to the fourth paragraph under such heading in Public Law 111–117, $2,000,000,000 is rescinded: *Provided*, That the Secretary of Health and Human Services, in consultation with the Director of the Office of Management and Budget, shall determine the amount to be rescinded from each appropriation and shall transmit a written notice of such determination to the Committees on Appropriations of the House of Representatives and the Senate not later than 30 days after enactment of this Act: *Provided further*, That section 3002 shall not apply to $500,000,000 of the amount in this section.

(RESCISSION)

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

(RESCISSION)

SEC. 4157. Of the funds appropriated for "Department of Education—Innovation and Improvement" in division A of Public Law 111–5 (123 Stat. 182) and division D of Public Law 111–117 (123 Stat. 3263), $200,000,000 is rescinded, to be derived only from

amounts available for the Teacher Incentive Fund: *Provided*, That section 3002 shall not apply to $100,000,000 of the amount in this section.

(RESCISSION)

SEC. 4158. Of the funds appropriated for "Department of Education—State Fiscal Stabilization Fund" in title XIV of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 279), $500,000,000 is rescinded, to be derived only from the amount made available for grants under section 14006 of such title and through a corresponding reduction in the total amount reserved under section 14001(c) of such title for grants under such section 14006.

SEC. 4159. Amounts appropriated to the Architect of the Capitol in the Legislative Branch Appropriations Act, 2006 (Public Law 109–55) under the heading "Architect of the Capitol—Capitol Police Building and Grounds" and that remain available until September 30, 2010, and amounts appropriated to the Architect of the Capitol in the Legislative Branch Appropriations Act, 2010 (Public Law 111–68) under the heading "Architect of the Capitol—Capitol Police Buildings, Grounds and Security" and that remain available until September 30, 2014, shall be available to the Architect of the Capitol for the purchase of real property (including any buildings or facilities) for the use of the Capitol Police.

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

(b) TRANSFER TO SERGEANT AT ARMS.—The functions and responsibilities of the Office of Emergency Planning, Preparedness, and Operations under section 905 of the Emergency Supplemental Act, 2002 (2 U.S.C. 130i) (as in effect on the day before the date referred to in subsection (c)) shall be transferred and assigned to the Sergeant at Arms of the House of Representatives.

(c) EFFECTIVE DATE.—This section and the amendment made by this section shall take effect February 1, 2010.

(RESCISSION)

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

(RESCISSION)

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

(RESCISSION)

SEC. 4163. Of the unobligated balances available under "Department of Defense, Military Construction, Navy and Marine Corps" from prior appropriations Acts, $110,000,000 is rescinded: *Provided*, That no funds may be rescinded from amounts that were designated by the Congress as an emergency requirement or as appropriations for overseas deployments and other activities pursuant to a concurrent resolution on the budget or the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That section 3002 shall not apply to the amount in this section.

(RESCISSION)

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

(RESCISSION)

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

SEC. 4166. None of the funds appropriated or otherwise made available by this Act may be obligated by any covered executive agency in contravention of the certification requirement of section 6(b) of the Iran Sanctions Act of 1996, as included in the revisions to the Federal Acquisition Regulation pursuant to such section.

(RESCISSIONS)

SEC. 4167. (a) MILLENNIUM CHALLENGE CORPORATION.—Of the unobligated balances available under the heading "Millennium Challenge Corporation" in title III of division H of Public Law 111–8 and under such heading in prior Acts making appropriations for the Department of State, foreign operations, and related programs, $150,000,000 is rescinded.

(b) CIVILIAN STABILIZATION INITIATIVE.—

(1) DEPARTMENT OF STATE.—Of the unobligated balances available under the heading "Department of State—Administration of Foreign Affairs—Civilian Stabilization Initiative" in prior Acts making appropriations for the Department of State, foreign operations, and related programs, $40,000,000 is rescinded.

(2) UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.—Of the unobligated balances available under the heading "United States Agency for International Development—Funds Appropriated to the President—Civilian Stabilization Initiative" in prior Acts making appropriations for the Department of State, foreign operations, and related programs, $30,000,000 is rescinded.

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

(RESCISSION)

SEC. 4168. Of the unobligated balances available under the heading "Capital Investment Fund" in title XI of division A of Public Law 111-5, $40,000,000 is rescinded.

(RESCISSION)

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

(RESCISSIONS)

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

(1) "Department of Transportation—Federal Aviation Administration—Facilities and Equipment", $2,182,544, to be derived from unobligated balances made available under this heading in Public Law 108–324.

(2) "Department of Transportation—Federal Aviation Administration—Facilities and Equipment", $5,705,750, to be derived from unobligated balances made available under this heading in Public Law 109–148.

(3) "Department of Housing and Urban Development—Community Planning and Development—Community Development Fund", $111,602,923, to be derived from unobligated balances made available under this heading in chapter 10 of title I of division B of Public Law 110–329.

SEC. 4171. The item relating to "Federal Housing Administration—General and Special Risk Program Account" in title II of division A of the Consolidated Appropriations Act, 2010 (Public Law 111–117; 123 Stat. 3091) is amended by striking "$15,000,000,000" and inserting "$20,000,000,000": *Provided*, That section 3002 shall not apply to the amount in this section.

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

(RESCISSION)

SEC. 4173. Of the unobligated balances of contract authority apportioned to each State for the programs listed in section 105(a)(2) of title 23, United States Code (except the equity bonus program under section 105 of such title and the high priority projects program under section 117 of such title), $2,200,000,000 is permanently rescinded: *Provided,* That such rescission shall be distributed within each State among all programs for which funds were apportioned for fiscal year 2009 and to which the rescission applies, to the extent sufficient funds remain available for obligation, in the ratio that the amount of funds apportioned for each such program for such fiscal year, bears to the amount of funds apportioned for all such programs for such fiscal year: *Provided further,* That funds set aside under sections 133(d)(2) and 133(d)(3) of title 23, United

States Code, shall be treated as being apportioned for the purposes of this section: *Provided further,* That section 1132 of Public Law 110–140 shall not apply to the rescission under this section: *Provided further*, That section 3002 shall not apply to the amount in this section.

(RESCISSION)

SEC. 4174. Of the unobligated balances of funds under the heading "Department of Housing and Urban Development—Community Planning and Development—Community Development Fund" made available by section 159 of Public Law 110–92, as added by division B of Public Law 110–116, $400,000,000 is rescinded.

CHAPTER 2

PRESERVE ACCESS TO AFFORDABLE GENERICS ACT

SHORT TITLE

SEC. 4201. This chapter may be cited as the "Preserve Access to Affordable Generics Act".

UNLAWFUL COMPENSATION FOR DELAY

SEC. 4202. (a) IN GENERAL.—The Federal Trade Commission Act (15 U.S.C. 44 et seq.) is amended—

(1) by redesignating section 28 as section 29; and

(2) by inserting before section 29, as redesignated, the following:

"SEC. 28. PRESERVING ACCESS TO AFFORDABLE GENERICS.

"(a) IN GENERAL.—

"(1) ENFORCEMENT PROCEEDING.—The Federal Trade Commission may initiate a proceeding to enforce the provisions of this section against the parties to any agreement resolving or settling, on a final or interim basis, a patent infringement claim, in connection with the sale of a drug product.

"(2) PRESUMPTION.—

"(A) IN GENERAL.—Subject to subparagraph (B), in such a proceeding, an agreement shall be presumed to have anticompetitive effects and be unlawful if—

"(i) an ANDA filer receives anything of value; and

"(ii) the ANDA filer agrees to limit or forego research, development, manufacturing, marketing, or sales of the ANDA product for any period of time.

"(B) EXCEPTION.—The presumption in subparagraph (A) shall not apply if the parties to such agreement demonstrate by clear and convincing evidence that the procompetitive benefits of the agreement outweigh the anticompetitive effects of the agreement.

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

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

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

"(3) the form and amount of consideration received by the ANDA filer in the agreement resolving or settling the patent infringement claim;

"(4) the revenue the ANDA filer would have received by winning the patent litigation;

"(5) the reduction in the NDA holder's revenues if it had lost the patent litigation;

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

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

"(c) LIMITATIONS.—In determining whether the settling parties have met their burden under subsection (a)(2)(B), the fact finder shall not presume—

"(1) that entry would not have occurred until the expiration of the relevant patent or statutory exclusivity; or

"(2) that the agreement's provision for entry of the ANDA product prior to the expiration of the relevant patent or statutory exclusivity means that the agreement is pro-competitive, although such evidence may be relevant to the fact finder's determination under this section.

"(d) EXCLUSIONS.—Nothing in this section shall prohibit a resolution or settlement of a patent infringement claim in which the consideration granted by the NDA holder to the ANDA filer as part of the resolution or settlement includes only one or more of the following:

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

"(A) any patent that is the basis for the patent infringement claim; or

"(B) any patent right or other statutory exclusivity that would prevent the marketing of such drug.

"(2) A payment for reasonable litigation expenses not to exceed $7,500,000.

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

"(e) REGULATIONS AND ENFORCEMENT.—

"(1) REGULATIONS.—The Federal Trade Commission may issue, in accordance with section 553 of title 5, United States Code, regulations implementing and interpreting this section. These regulations may exempt certain types of agreements described in subsection (a) if the Commission determines such agreements will further market competition and benefit consumers. Judicial review of any such regulation shall be in the United States District Court for the District of Columbia pursuant to section 706 of title 5, United States Code.

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

"(3) JUDICIAL REVIEW.—Any person, partnership or corporation that is subject to a final order of the Commission, issued in an administrative adjudicative proceeding under the author-

ity of subsection (a)(1), may, within 30 days of the issuance of such order, petition for review of such order in the United States Court of Appeals for the District of Columbia Circuit or the United States Court of Appeals for the circuit in which the ultimate parent entity, as defined at 16 C.F.R. 801.1(a)(3), of the NDA holder is incorporated as of the date that the NDA is filed with the Secretary of the Food and Drug Administration, or the United States Court of Appeals for the circuit in which the ultimate parent entity of the ANDA filer is incorporated as of the date that the ANDA is filed with the Secretary of the Food and Drug Administration. In such a review proceeding, the findings of the Commission as to the facts, if supported by evidence, shall be conclusive.

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

"(g) PENALTIES.—

"(1) FORFEITURE.—Each person, partnership or corporation that violates or assists in the violation of this section shall forfeit and pay to the United States a civil penalty sufficient to deter violations of this section, but in no event greater than 3 times the value received by the party that is reasonably attributable to a violation of this section. If no such value has been received by the NDA holder, the penalty to the NDA holder shall be shall be sufficient to deter violations, but in no event greater than 3 times the value given to the ANDA filer reasonably attributable to the violation of this section. Such penalty 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.

"(2) CEASE AND DESIST.—

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

"(B) EXCEPTION.—In an action under subparagraph (A), the findings of the Commission as to the material facts in the administrative adjudicative proceeding with respect to such person's, partnership's or corporation's violation of this section shall be conclusive unless—

"(i) the terms of such cease and desist order expressly provide that the Commission's findings shall not be conclusive; or

"(ii) the order became final by reason of section 5(g)(1), in which case such finding shall be conclusive if supported by evidence.

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

"(A) the nature, circumstances, extent, and gravity of the violation;

"(B) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, any effect on the ability to continue doing business, profits earned by the NDA holder, compensation received by the ANDA filer, and the amount of commerce affected; and

"(C) other matters that justice requires.

"(4) REMEDIES IN ADDITION.—Remedies provided in this subsection are in addition to, and not in lieu of, any other remedy provided by Federal law. Nothing in this paragraph shall be construed to affect any authority of the Commission under any other provision of law.

"(h) DEFINITIONS.—In this section:

"(1) AGREEMENT.—The term 'agreement' means anything that would constitute an agreement under section 1 of the Sherman Act (15 U.S.C. 1) or section 5 of this Act.

"(2) AGREEMENT RESOLVING OR SETTLING A PATENT INFRINGEMENT CLAIM.—The term 'agreement resolving or settling a patent infringement claim' includes any agreement that is entered into within 30 days of the resolution or the settlement of the claim, or any other agreement that is contingent upon, provides a contingent condition for, or is otherwise related to the resolution or settlement of the claim.

"(3) ANDA.—The term 'ANDA' means an abbreviated new drug application, as defined under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)).

"(4) ANDA FILER.—The term 'ANDA filer' means a party who has filed an ANDA with the Food and Drug Administration.

"(5) ANDA PRODUCT.—The term 'ANDA product' means the product to be manufactured under the ANDA that is the subject of the patent infringement claim.

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

"(7) NDA.—The term 'NDA' means a new drug application, as defined under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)).

"(8) NDA HOLDER.—The term 'NDA holder' means—

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

"(B) a party owning or controlling enforcement of the patent listed in the Approved Drug Products With Thera-

peutic Equivalence Evaluations (commonly known as the 'FDA Orange Book') in connection with the NDA; or

"(C) the predecessors, subsidiaries, divisions, groups, and affiliates controlled by, controlling, or under common control with any of the entities described in subparagraphs (A) and (B) (such control to be presumed by direct or indirect share ownership of 50 percent or greater), as well as the licensees, licensors, successors, and assigns of each of the entities.

"(9) PATENT INFRINGEMENT.—The term 'patent infringement' means infringement of any patent or of any filed patent application, extension, reissue, renewal, division, continuation, continuation in part, reexamination, patent term restoration, patents of addition and extensions thereof.

"(10) PATENT INFRINGEMENT CLAIM.—The term 'patent infringement claim' means any allegation made to an ANDA filer, whether or not included in a complaint filed with a court of law, that its ANDA or ANDA product may infringe any patent held by, or exclusively licensed to, the NDA holder of the drug product.

"(11) STATUTORY EXCLUSIVITY.—The term 'statutory exclusivity' means those prohibitions on the approval of drug applications under clauses (ii) through (iv) of section 505(c)(3)(E) (5- and 3-year data exclusivity), section 527 (orphan drug exclusivity), or section 505A (pediatric exclusivity) of the Federal Food, Drug, and Cosmetic Act .".

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

NOTICE AND CERTIFICATION OF AGREEMENTS

SEC. 4203. (a) NOTICE OF ALL AGREEMENTS.—Section 1112(c)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (21 U.S.C. 355 note) is amended—

(1) by striking "the Commission the" and inserting the following: "the Commission—

"(1) the";

(2) by striking the period and inserting "; and"; and

(3) by inserting at the end the following:

"(2) any other agreement the parties enter into within 30 days of entering into an agreement covered by subsection (a) or (b).".

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

"(d) CERTIFICATION.—The Chief Executive Officer or the company official responsible for negotiating any agreement required to be filed under subsection (a), (b), or (c) shall execute and file with the Assistant Attorney General and the Commission a certification as follows: 'I declare that the following is true, correct, and complete to the best of my knowledge: The materials filed with the Federal Trade Commission and the Department of Justice under section 1112 of subtitle B of title XI of the Medicare Prescription Drug, Im-

provement, and Modernization Act of 2003, with respect to the agreement referenced in this certification: (1) represent the complete, final, and exclusive agreement between the parties; (2) include any ancillary agreements that are contingent upon, provide a contingent condition for, or are otherwise related to, the referenced agreement; and (3) include written descriptions of any oral agreements, representations, commitments, or promises between the parties that are responsive to subsection (a) or (b) of such section 1112 and have not been reduced to writing.'.".

FORFEITURE OF 180-DAY EXCLUSIVITY PERIOD

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

COMMISSION LITIGATION AUTHORITY

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

(1) in subparagraph (D), by striking "or" after the semicolon;

(2) in subparagraph (E), by inserting "or" after the semicolon; and

(3) by inserting after subparagraph (E) the following:

"(F) under section 28;".

STATUTE OF LIMITATIONS

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

SEVERABILITY

SEC. 4207. If any provision of this chapter, an amendment made by this chapter, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this chapter, the amendments made by this chapter, and the application of the provisions of such chapter or amendments to any person or circumstance shall not be affected thereby.

CHAPTER 3

COMPUTATION OF MEDICAID AVERAGE MANUFACTURER PRICE

COMPUTATION OF MEDICAID AVERAGE MANUFACTURER PRICE (AMP) FOR DRUGS NOT DISPENSED THROUGH RETAIL COMMUNITY PHARMACIES

SEC. 4301. (a) IN GENERAL.—Section 1927(k)(1)(B)(i)(IV) of the Social Security Act (42 U.S.C. 1396r–8(k)(1)(B)(i)(IV)), as amended by section 2503(a)(2)(B) of the Patient Protection and Affordable

Care Act (Public Law 111–148) and by section 1102(c)(2) of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152), is amended by inserting after "retail community pharmacy" the following: ", except that in the case of an inhalation, infusion, or injectable drug that is not dispensed through a retail community pharmacy, the exclusion under this subclause shall not apply to payments received from, and rebates and discounts provided to, distributors or hospitals, clinics, doctors, and other entities directly dispensing the drug; and".

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

CHAPTER 4

PUBLIC SAFETY EMPLOYER-EMPLOYEE COOPERATION ACT

SHORT TITLE

SEC. 4401. This chapter may be cited as the "Public Safety Employer-Employee Cooperation Act of 2010".

DECLARATION OF PURPOSE AND POLICY

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

(1) Labor-management relationships and partnerships are based on trust, mutual respect, open communication, bilateral consensual problem solving, and shared accountability. Labor-management cooperation fully utilizes the strengths of both parties to best serve the interests of the public, operating as a team, to carry out the public safety mission in a quality work environment. In many public safety agencies, it is the union that provides the institutional stability as elected leaders and appointees come and go.

(2) State and local public safety officers play an essential role in the efforts of the United States to detect, prevent, and respond to terrorist attacks, and to respond to natural disasters, hazardous materials, and other mass casualty incidents. State and local public safety officers, as first responders, are a component of our Nation's National Incident Management System, developed by the Department of Homeland Security to coordinate response to and recovery from terrorism, major natural disasters, and other major emergencies. Public safety employer-employee cooperation is essential in meeting these needs and is, therefore, in the National interest.

(3) The Federal Government needs to encourage conciliation, mediation, and voluntary arbitration to aid and encourage employers and the representatives of their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts through negotiations to settle their differences by mutual agreement reached through collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.

(4) The absence of adequate cooperation between public safety employers and employees has implications for the security

of employees and can affect interstate and intrastate commerce. The lack of such labor-management cooperation can detrimentally impact the upgrading of police and fire services of local communities, the health and well-being of public safety officers, and the morale of the fire and police departments. Additionally, these factors could have significant commercial repercussions. Moreover, providing minimal standards for collective bargaining negotiations in the public safety sector can prevent industrial strife between labor and management that interferes with the normal flow of commerce.

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

DEFINITIONS

SEC. 4403. In this chapter:

(1) AUTHORITY.—The term "Authority" means the Federal Labor Relations Authority.

(2) CONFIDENTIAL EMPLOYEE.—The term "confidential employee" has the meaning given such term under applicable State law on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) is designated as confidential; and

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

(3) EMERGENCY MEDICAL SERVICES PERSONNEL.—The term "emergency medical services personnel" means an individual who provides out-of-hospital emergency medical care, including an emergency medical technician, paramedic, or first responder.

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

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

(6) LABOR ORGANIZATION.—The term "labor organization" means an organization composed in whole or in part of employees, in which employees participate, and which represents such employees before public safety agencies concerning grievances, conditions of employment, and related matters.

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

(8) MANAGEMENT EMPLOYEE.—The term "management employee" has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual employed by a public safety employer in a position that requires

or authorizes the individual to formulate, determine, or influence the policies of the employer.

(9) PERSON.—The term "person" means an individual or a labor organization.

(10) PUBLIC SAFETY OFFICER.—The term "public safety officer"—

(A) means an employee of a public safety agency who is a law enforcement officer, a firefighter, or an emergency medical services personnel;

(B) includes an individual who is temporarily transferred to a supervisory or management position; and

(C) does not include a permanent supervisory, management, or confidential employee.

(11) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, and any territory or possession of the United States.

(12) SUBSTANTIALLY PROVIDES.—The term "substantially provides", when used with respect to the rights and responsibilities described in section 3404(b), means compliance with each right and responsibility described in such section.

(13) SUPERVISORY EMPLOYEE.—The term "supervisory employee" has the meaning given such term under applicable State law in effect on the date of enactment of this Act. If no such State law is in effect, the term means an individual, employed by a public safety employer, who—

(A) has the authority in the interest of the employer to hire, direct, assign, promote, reward, transfer, furlough, lay off, recall, suspend, discipline, or remove public safety officers, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment; and

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

DETERMINATION OF RIGHTS AND RESPONSIBILITIES

SEC. 4404. (a) DETERMINATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Authority shall make a determination as to whether a State substantially provides for the rights and responsibilities described in subsection (b).

(2) CONSIDERATION OF ADDITIONAL OPINIONS.—In making the determination described in paragraph (1), the Authority shall consider the opinions of affected employers and labor organizations. In the case where the Authority is notified by an affected employer and labor organization that both parties agree that the law applicable to such employer and labor organization substantially provides for the rights and responsibilities described in subsection (b), the Authority shall give such agreement weight to the maximum extent practicable in making the Authority's determination under this subsection.

(3) LIMITED CRITERIA.—In making the determination described in paragraph (1), the Authority shall be limited to the application of the criteria described in subsection (b) and shall not require any additional criteria.

(4) SUBSEQUENT DETERMINATIONS.—

(A) IN GENERAL.—A determination made pursuant to paragraph (1) shall remain in effect unless and until the Authority issues a subsequent determination, in accordance with the procedures set forth in subparagraph (B).

(B) PROCEDURES FOR SUBSEQUENT DETERMINATIONS.—Upon establishing that a material change in State law or its interpretation has occurred, an employer or a labor organization may submit a written request for a subsequent determination. If satisfied that a material change in State law or its interpretation has occurred, the Authority shall issue a subsequent determination not later than 30 days after receipt of such request.

(5) JUDICIAL REVIEW.—Any person or employer aggrieved by a determination of the Authority under this section may, during the 60-day period beginning on the date on which the determination was made, petition any United States Court of Appeals in the circuit in which the person or employer resides or transacts business or in the District of Columbia circuit, for judicial review. In any judicial review of a determination by the Authority, the procedures contained in subsections (c) and (d) of section 7123 of title 5, United States Code, shall be followed.

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

(1) Granting public safety officers the right to form and join a labor organization, which may exclude management employees, supervisory employees, and confidential employees, that is, or seeks to be, recognized as the exclusive bargaining representative of such employees.

(2) Requiring public safety employers to recognize the employees' labor organization (freely chosen by a majority of the employees), to agree to bargain with the labor organization, and to commit any agreements to writing in a contract or memorandum of understanding.

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

(4) Making available an interest impasse resolution mechanism, such as fact-finding, mediation, arbitration, or comparable procedures.

(5) Requiring enforcement of all rights, responsibilities, and protections provided by State law and enumerated in this section, and of any written contract or memorandum of understanding between a labor organization and a public safety employer, through—

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

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

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

(d) FAILURE TO MEET REQUIREMENTS.—

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

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

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

(C) in the case of a State receiving a subsequent determination under subsection (a)(4), the date that is the last day of the first regular session of the legislature of the State that begins after the date the Authority made the determination.

(2) PARTIAL FAILURE.—If the Authority makes a determination that a State does not substantially provide for the rights and responsibilities described in subsection (b) solely because the State law substantially provides for such rights and responsibilities for certain categories of public safety officers covered by this chapter but not others, the Authority shall identify those categories of public safety officers that shall be subject to the regulations and procedures described in section 4405, pursuant to section 4408(b)(3) and beginning on the appropriate date described in paragraph (1), and those categories of public safety officers that shall remain subject to State law.

ROLE OF FEDERAL LABOR RELATIONS AUTHORITY

SEC. 4405. (a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Authority shall issue regulations in accordance with the rights and responsibilities described in section 4404(b) establishing collective bargaining procedures for employers and public safety officers in States which the Authority has determined, acting pursuant to section 4404(a), do not substantially provide for such rights and responsibilities.

(b) ROLE OF THE FEDERAL LABOR RELATIONS AUTHORITY.—The Authority, to the extent provided in this chapter and in accordance with regulations prescribed by the Authority, shall—

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

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

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

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

(5) resolve exceptions to the awards of arbitrators;

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

(7) take such other actions as are necessary and appropriate to effectively administer this chapter, including issuing subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States, and administering oaths, taking or ordering the taking of depositions, ordering responses to written interrogatories, and receiving and examining witnesses.

(c) ENFORCEMENT.—

(1) AUTHORITY TO PETITION COURT.—The Authority may petition any United States Court of Appeals with jurisdiction over the parties, or the United States Court of Appeals for the District of Columbia Circuit, to enforce any final orders under this section, and for appropriate temporary relief or a restraining order. Any petition under this section shall be conducted in accordance with subsections (c) and (d) of section 7123 of title 5, United States Code.

(2) PRIVATE RIGHT OF ACTION.—Unless the Authority has filed a petition for enforcement as provided in paragraph (1), any party has the right to file suit in any appropriate district court of the United States to enforce compliance with the regulations issued by the Authority pursuant to subsection (b), and to enforce compliance with any order issued by the Authority pursuant to this section. The right provided by this subsection to bring a suit to enforce compliance with any order issued by the Authority pursuant to this section shall terminate upon the filing of a petition seeking the same relief by the Authority.

STRIKES AND LOCKOUTS PROHIBITED

SEC. 4406. (a) IN GENERAL.—Subject to subsection (b), an employer, public safety officer, or labor organization may not engage in a lockout, sickout, work slowdown, strike, or any other organized job action that will measurably disrupt the delivery of emergency services and is designed to compel an employer, public safety officer, or labor organization to agree to the terms of a proposed contract.

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

EXISTING COLLECTIVE BARGAINING UNITS AND AGREEMENTS

SEC. 4407. A certification, recognition, election-held, collective bargaining agreement or memorandum of understanding which has been issued, approved, or ratified by any public employee relations board or commission or by any State or political subdivision or its agents (management officials) and is in effect on the day before the date of enactment of this Act shall not be invalidated by the enactment of this Act.

CONSTRUCTION AND COMPLIANCE

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

(1) to preempt or limit the remedies, rights, and procedures of any law of any State or political subdivision of any State that provides greater or comparable rights and responsibilities

than the rights and responsibilities described in section 4404(b);

(2) to prevent a State from enforcing a right-to-work law that prohibits employers and labor organizations from negotiating provisions in a labor agreement that require union membership or payment of union fees as a condition of employment;

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

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

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

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

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

For purposes of paragraph (6), the term "employee" includes each and every individual employed by the political subdivision except any individual elected by popular vote or appointed to serve on a board or commission.

(b) COMPLIANCE.—

(1) ACTIONS OF STATES.—Nothing in this chapter or the regulations promulgated under this chapter shall be construed to require a State to rescind or preempt the laws or ordinances of any of the State's political subdivisions if such laws provide rights and responsibilities for public safety officers that are comparable to or greater than the rights and responsibilities described in section 4404(b).

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

(A) the laws or ordinances of any State or political subdivision of a State, if such laws provide collective bargaining rights for public safety officers that are comparable to or greater than the rights enumerated in section 4404(b);

(B) the laws or ordinances of any State or political subdivision of a State that provide for the rights and responsibilities described in section 4404(b) with respect to certain categories of public safety officers covered by this Act solely because such rights and responsibilities have not

been extended to other categories of public safety officers covered by this chapter; or

(C) the laws or ordinances of any State or political subdivision of a State that provide for the rights and responsibilities described in section 4404(b), solely because such laws or ordinances provide that a contract or memorandum of understanding between a public safety employer and a labor organization must be presented to a legislative body as part of the process for approving such contract or memorandum of understanding.

(3) LIMITED ENFORCEMENT POWER.—In the case of a law described in paragraph (2)(B), the Authority shall only exercise the powers provided in section 4405 with respect to those categories of public safety officers who have not been afforded the rights and responsibilities described in section 4404(b).

(4) EXCLUSIVE ENFORCEMENT PROVISION.—Notwithstanding any other provision of the chapter, and in the absence of a waiver of a State's sovereign immunity, the Authority shall have the exclusive power to enforce the provisions of this chapter with respect to employees of a State.

AUTHORIZATION OF APPROPRIATIONS

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

CHAPTER 5

PROGRAM INTEGRITY INITIATIVES

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

ENFORCEMENT

For an additional amount for "Enforcement", $245,000,000, to remain available through September 30, 2011, for additional and enhanced tax enforcement activities: *Provided*, That section 3002 shall not apply to the amount under this heading.

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For an additional amount for "State Unemployment Insurance and Employment Service Operations", $5,000,000, to be expended from the Employment Security Administration Account of the Unemployment Trust Fund and remain available through September 30, 2011, to conduct in-person reemployment and eligibility assessments and unemployment insurance improper payment reviews: *Provided*, That section 3002 shall not apply to the amount under this heading.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT

For an additional amount for "Health Care Fraud and Abuse Control Account", $250,000,000, to remain available through September 30, 2012, to be transferred from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as authorized by section 201(g) of the Social Security Act, of which $124,747,000 shall be for Centers for Medicare and Medicaid Services Program Integrity Activities, including administrative costs, to conduct oversight activities for Medicare Advantage and the Medicare Prescription Drug Program authorized in title XVIII of the Social Security Act, for activities listed in section 1893 of such Act, and for Medicaid and Children's Health Insurance Program program integrity activities; of which $65,040,000 shall be for the Department of Health and Human Services Office of Inspector General to carry out fraud and abuse activities authorized by section 1817(k)(3) of such Act; and of which $60,213,000 shall be for the Department of Justice to carry out fraud and abuse activities authorized by section 1817(k)(3) of such Act: *Provided*, That section 3002 shall not apply to the amounts under this heading.

RELATED AGENCIES

SOCIAL SECURITY ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

For an additional amount for "Limitation on Administrative Expenses", $38,000,000, to remain available through September 30, 2011, for the cost associated with conducting continuing disability reviews under titles II and XVI of the Social Security Act and for the cost associated with conducting redeterminations of eligibility under title XVI of the Social Security Act: *Provided*, That section 3002 shall not apply to the amount under this heading.

CHAPTER 6

GENERAL PROVISIONS—THIS TITLE

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

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

SEC. 4602. (a) STATUTORY PAYGO.—The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled "Budgetary Effects of PAYGO Legislation" for this Act, jointly submitted for printing in the Congressional Record by the Chairmen of the House and Senate Budget Committees, provided that such statement has been submitted prior to the vote on pas-

sage in the House acting first on this conference report or amendment between the Houses.

(b) EXCLUSION FROM PAYGO.—

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

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

TEXT OF AMENDMENT NO. 3

Page 8, strike line 3 and all that follows through page 9, line 6.

Page 9, line 10, strike "$11,719,927,000, of which $218,300,000" and insert "$218,300,000, which".

Page 9, line 18, strike "$2,735,194,000, of which $187,600,000" and insert "$187,600,000, which".

Page 10, line 3, strike "$829,326,000, of which $30,700,000" and insert "$30,700,000, which".

Page 10, line 11, strike "$3,835,095,000, of which $218,400,000" and insert "$218,400,000, which".

Page 10, beginning on line 20, strike "$1,236,727,000: *Provided*, That up to $50,000,000, to remain available until expended," and insert "$50,000,000, to remain available until expended: *Provided*, That such amount".

Page 11, strike line 22 and all that follows through page 18, line 18.

Page 18, strike line 20, and all that follows through page 19, line 18.

Page 19, line 19, strike "304." and insert "301.".

Page 20, line 3, strike "305." and insert "302.".

Page 20, line 8, strike "306." and insert "303.".

Page 20, line 18, strike "307." and insert "304.".

Page 21, line 3, strike "308." and insert "305.".

Page 38, strike lines 4 through 22.

Page 41, strike lines 6 through 16.

Page 42, strike lines 8 through 12.

Page 43, strike lines 22 through 25.

Page 45, strike lines 3 through 19.

Page 48, line 8, strike the dollar amount and all that follows through "available" on page 49, line 3 and insert "$175,000,000, to remain available until September 30, 2012,".

Page 49, line 20, after the first comma, strike the dollar amount and all that follows through "available" on line 23 and insert "$50,000,000, to remain available until September 30, 2012,".

Page 52, strike line 3 and all that follows through page 58, line 20.

Page 58, line 22, strike "1007." and insert "1004.".

Page 61, line 13, strike "1008." and insert "1005.".

Page 62, line 15, strike "1009." and insert "1006.".

Page 64, line 14, strike "1010." and insert "1007.".
Page 66, line 10, strike "1011." and insert "1008.".
Page 66, line 16, strike "1012." and insert "1009.".
Page 66, line 23, strike "1013." and insert "1010.".
Page 67, line 13, strike "1014." and insert "1011.".
Page 67, line 21, strike "1015." and insert "1012.".
Page 68, line 21, strike "Iraq, Pakistan, Afghanistan, and".
Page 68, line 23, strike "those countries" and insert "that country".
Page 69, strike line 8 and all that follows through page 70, line 18.

TEXT OF AMENDMENT NO. 4

At the end of the bill (before the short title), insert the following:

SEC. ____. (a) LIMITATION.—Funds appropriated in this Act for the continued military operations of the Armed Forces in Afghanistan may be obligated and expended within Afghanistan only for the purposes of—

(1) providing for the continued protection of members of the Armed Forces and civilian and contractor personnel of the Federal Government who are in Afghanistan; and

(2) beginning the safe and orderly withdrawal from Afghanistan of all members of the Armed Forces and Department of Defense contractor personnel who are in Afghanistan.

(b) CLARIFICATION.—Nothing in subsection (a) shall be construed to prohibit or otherwise restrict the use of funds available to any department or agency of the United States to carry out diplomatic efforts or humanitarian activities in Afghanistan, including security related to such efforts and activities.

TEXT OF AMENDMENT NO. 5

Page 22, after line 16, insert the following:

SEC. 309. (a) FINDINGS REGARDING SECURITY AND STABILITY CONDITIONS IN AFGHANISTAN.—Since the last national intelligence estimate on conditions in Afghanistan, there have been fundamental changes in the conditions in that country, and fundamental changes in the United States military and diplomatic strategy toward that country, including—

(1) the August 2009 elections in Afghanistan;

(2) the strategy announced by the President in December 2009 to guide United States military operations, including a commitment to begin redeployment of troops out of Afghanistan by July 2011;

(3) the tactics employed by the United States, which emphasize counterinsurgency military operations and increasing civilian participation;

(4) the level of United States forces deployed to Afghanistan; and

(5) the continuing development of Afghanistan's security forces, including the Afghan National Army and the Afghan National Police.

(b) REPORT.—Not later than January 31, 2011, the Director of National Intelligence shall submit to the President and the Congress a new national intelligence estimate on security and stability in Afghanistan and Pakistan, which shall include—

(1) an assessment of the ability, performance, intent, and commitment of the Government of Afghanistan to work with the United States to implement the strategy announced in December 2009;

(2) an assessment of the ability, performance, intent, and commitment of the Government of Pakistan to work with the United States to implement the strategy announced in December 2009;

(3) an assessment of the security forces of Afghanistan and Pakistan, including their ability to maintain security in areas where they are deployed, and an assessment of the timing of full deployment as envisioned by the December 2009 strategy;

(4) an assessment of whether continuing United States military presence in Afghanistan contributes to Afghan and Pakistani support for, or sympathy toward, the Taliban, al Qaeda, or other insurgents;

(5) an assessment of the effect of continuing United States military presence on the strength of al Qaeda and other terrorist organizations in Afghanistan and neighboring countries, including those in the United States Central Command and United States Africa Command areas of responsibility; and

(6) an assessment of the effect of the continuing United States military presence on the ability of al Qaeda and related terrorist organizations to obtain resources, recruit personnel, and continue operations targeted at the United States and its allies.

(c) PLAN WITH TIMETABLE REQUIRED.—Not later than April 4, 2011, the President shall submit to Congress a plan for the safe, orderly, and expeditious redeployment of the Armed Forces from Afghanistan, including military and security-related contractors, together with a timetable for the completion of that redeployment and information regarding variables that could alter that timetable.

(d) STATUS UPDATES.—Not later than 90 days after the date of the submittal of the plan required by subsection (c), and every 90 days thereafter, the President shall submit to Congress a report setting forth the current status of the plan for redeploying the Armed Forces from Afghanistan.

(e) OVERSIGHT OF CONTRACTORS ENGAGED IN ACTIVITIES RELATING TO AFGHANISTAN.—

(1) RECOMMENDATIONS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Special Inspector General for Afghanistan Reconstruction shall, in consultation with the Inspector General of the Department of Defense, the Inspector General of the United States Agency for International Development, and the Inspector General of the Department of State—

(A) issue recommendations on measures to increase oversight of contractors engaged in activities relating to Afghanistan that have a record of engaging in waste, fraud, or abuse;

(B) report on the status of efforts of the Department of Defense, the United States Agency for International Development, and the Department of State to implement existing recommendations regarding oversight of such contractors; and

(C) report on the extent to which military and security contractors or subcontractors engaged in activities relating to Afghanistan have been responsible for the deaths of Afghan civilians.

(2) ELEMENTS OF RECOMMENDATIONS.—The recommendations issued under paragraph (1) shall include—

(A) recommendations for reducing the reliance of the United States on—

(i) military and security contractors or subcontractors engaged in activities relating to Afghanistan that have been responsible for the deaths of Afghan civilians; and

(ii) Afghan militias or other armed groups that are not part of the Afghan National Security Forces; and

(B) recommendations for prohibiting the Department of Defense, the Department of State, or the United States Agency for International Development from entering into contracts with contractors engaged in activities relating to Afghanistan that have a record of engaging in waste, fraud, or abuse.

SEC. 310. (a) LIMITATION ON FUNDS.—None of the funds available to the Department of Defense in the Department of Defense Appropriations Act, 2011 may be obligated or expended in a manner that is inconsistent with the President's policy announced on December 1, 2009, to begin the orderly withdrawal of United States troops from Afghanistan after July 1, 2011, unless the Congress approves a joint resolution as specified in subsection (b).

(b) JOINT RESOLUTION.—For purposes of this section, the term "joint resolution" means a joint resolution introduced in either House of the Congress after receipt by the Congress of the national intelligence estimate required under section 309 of this Act, the matter after the resolving clause of which is as follows: "That the Congress approves the obligation and expenditure of funds appropriated in the Department of Defense Appropriations Act, 2011 for United States combat operations in Afghanistan after July 1, 2011, even if the plan submitted on April 4, 2011, is inconsistent with the intention to begin the process of orderly withdrawal of United States troops from such combat operations in Afghanistan.".

(c) EXPEDITED PROCEDURES IN THE HOUSE.—

(1) A joint resolution in the House of Representatives shall be referred to the Committee on Appropriations.

(2) If the committee has not reported the joint resolution at the end of 20 legislative days after its introduction, the committee shall be discharged from further consideration of the joint resolution, and the joint resolution shall be placed on the appropriate calendar of the House.

(3) When the committee has reported a joint resolution or been discharged from further consideration, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consid-

eration of the joint resolution. The motion is highly privileged in the House. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or not agreed to shall not be in order.

(4) Debate on the joint resolution shall be limited to not more than 9 hours, which shall be divided equally between those favoring and those opposing the joint resolution. An amendment to, or motion to recommit, the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or not agreed to is not in order.

(5) Motions to postpone and motions to proceed to the consideration of other business shall be decided without debate.

(6) Appeals from the decisions of the Chair relating to the application of the rules of the House to the procedure relating to the joint resolution shall be decided without debate.

(d) EXPEDITED PROCEDURES IN THE SENATE.—[To be supplied.]

(e) CONGRESSIONAL RULEMAKING.—Subsections (c) and (d) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedures to be followed in that House in the case of joint resolutions described in subsection (b), and they supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

SEC. 311. Nothing in section 309 or 310 shall be construed so as to limit or prohibit any authority of the President to—

(1) attack al Qaeda forces wherever they are located;

(2) gather, provide, and share intelligence with allies operating in Afghanistan and Pakistan; or

(3) modify the military strategy and operations of the Armed Forces as such Armed Forces redeploy pursuant to a timetable and strategy developed under section 309(c).

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