

Union Calendar No. 61

107TH CONGRESS
1ST SESSION

H. R. 2311

[Report No. 107-112]

Making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2001

Mr. CALLAHAN, from the Committee on Appropriations, reported the following bill; which was committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

Making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated, for the
5 fiscal year ending September 30, 2002, and for other pur-
6 poses, namely:

1 TITLE I
2 DEPARTMENT OF DEFENSE—CIVIL
3 DEPARTMENT OF THE ARMY
4 CORPS OF ENGINEERS—CIVIL

5 The following appropriations shall be expended under
6 the direction of the Secretary of the Army and the super-
7 vision of the Chief of Engineers for authorized civil func-
8 tions of the Department of the Army pertaining to rivers
9 and harbors, flood control, beach erosion, and related pur-
10 poses.

11 GENERAL INVESTIGATIONS

12 For expenses necessary for the collection and study
13 of basic information pertaining to river and harbor, flood
14 control, shore protection, and related projects, restudy of
15 authorized projects, miscellaneous investigations, and,
16 when authorized by laws, surveys and detailed studies and
17 plans and specifications of projects prior to construction,
18 \$163,260,000, to remain available until expended: *Pro-*
19 *vided*, That the Secretary of the Army, acting through the
20 Chief of Engineers, is directed to use \$1,000,000 of the
21 funds appropriated herein to continue preconstruction en-
22 gineering and design of the Murrieta Creek, California,
23 flood protection and environmental enhancement project
24 and is further directed to proceed with the project in ac-
25 cordance with cost sharing established for the Murrieta

1 Creek project in Public Law 106–377: *Provided further*,
2 That the Secretary of the Army, acting through the Chief
3 of Engineers, is directed to use the feasibility report pre-
4 pared under the authority of section 205 of the Flood Con-
5 trol Act of 1948, as amended, as the basis for the Rock
6 Creek-Keefer Slough Flood Control Project, Butte Coun-
7 ty, California, and is further directed to use \$200,000 of
8 the funds appropriated herein for preconstruction engi-
9 neering and design of the project: *Provided further*, That
10 in conducting the Southwest Valley Flood Damage Reduc-
11 tion Study, Albuquerque, New Mexico, the Secretary of
12 the Army, acting through the Chief Engineers, shall in-
13 clude an evaluation of flood damage reduction measures
14 that would otherwise be excluded from the feasibility anal-
15 ysis based on policies regarding the frequency of flooding,
16 the drainage areas, and the amount of runoff.

17 CONSTRUCTION, GENERAL

18 For the prosecution of river and harbor, flood control,
19 shore protection, and related projects authorized by laws;
20 and detailed studies, and plans and specifications, of
21 projects (including those for development with participa-
22 tion or under consideration for participation by States,
23 local governments, or private groups) authorized or made
24 eligible for selection by law (but such studies shall not con-
25 stitute a commitment of the Government to construction),

1 \$1,671,854,000, to remain available until expended, of
2 which such sums as are necessary for the Federal share
3 of construction costs for facilities under the Dredged Ma-
4 terial Disposal Facilities program shall be derived from
5 the Harbor Maintenance Trust Fund, as authorized by
6 Public Law 104–303; and of which such sums as are nec-
7 essary pursuant to Public Law 99–662 shall be derived
8 from the Inland Waterways Trust Fund, for one-half of
9 the costs of construction and rehabilitation of inland wa-
10 terways projects, including rehabilitation costs for the
11 Lock and Dam 12, Mississippi River, Iowa; Lock and Dam
12 24, Mississippi River, Illinois and Missouri; Lock and
13 Dam 3, Mississippi River, Minnesota; and London Locks
14 and Dam, Kanawha River, West Virginia, projects; and
15 of which funds are provided for the following projects in
16 the amounts specified:

17 San Timoteo Creek (Santa Ana River
18 Mainstem), California, \$10,000,000;

19 Indianapolis Central Waterfront, Indiana,
20 \$9,000,000;

21 Southern and Eastern Kentucky, Kentucky,
22 \$4,000,000;

23 Clover Fork, City of Cumberland, Town of Mar-
24 tin, Pike County (including Levisa Fork and Tug
25 Fork Tributaries), Bell County, Floyd County, Mar-

1 tin County, and Harlan County, Kentucky, elements
2 of the Levisa and Tug Forks of the Big Sandy River
3 and Upper Cumberland River, Kentucky,
4 \$15,450,000: *Provided*, That \$15,000,000 of the
5 funds appropriated herein shall be deposited in the
6 San Gabriel Basin Restoration Fund established by
7 section 110 of division B, title I of Public Law 106–
8 554, of which \$1,000,000 shall be for remediation in
9 the Central Basin Municipal Water District: *Pro-*
10 *vided further*, That using \$1,000,000 of the funds
11 appropriated herein, the Secretary of the Army, act-
12 ing through the Chief of Engineers, is directed to
13 modify the Carr Creek Lake, Kentucky, project at
14 full Federal expense to provide additional water sup-
15 ply storage for the Upper Kentucky River Basin:
16 *Provided further*, That with \$1,200,000 of the funds
17 appropriated herein, the Secretary of the Army, act-
18 ing through the Chief of Engineers, is directed to
19 undertake design deficiency repairs to the Bois
20 Brule Drainage and Levee District, Missouri, project
21 authorized and constructed under the authority of
22 the Flood Control Act of 1936 with cost sharing
23 consistent with the original project authorization:
24 *Provided further*, That in accordance with section
25 332 of the Water Resources Development Act of

1 1999, the Secretary of the Army is directed to in-
2 crease the authorized level of protection of the Bois
3 Brule Drainage and Levee District, Missouri, project
4 from 50 years to 100 years using \$700,000 of the
5 funds appropriated herein, and the project costs allo-
6 cated to the incremental increase in the level of pro-
7 tection shall be cost shared consistent with section
8 103(a) of the Water Resources Development Act of
9 1986, notwithstanding section 202(a) of the Water
10 Resources Development Act of 1996.

11 FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBU-
12 TARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOU-
13 ISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

14 For expenses necessary for prosecuting work of flood
15 control, rescue work, repair, restoration, or maintenance
16 of flood control projects threatened or destroyed by flood,
17 as authorized by law (33 U.S.C. 702a and 702g-1),
18 \$347,665,000, to remain available until expended.

19 OPERATION AND MAINTENANCE, GENERAL

20 For expenses necessary for the preservation, oper-
21 ation, maintenance, and care of existing river and harbor,
22 flood control, and related works, including such sums as
23 may be necessary for the maintenance of harbor channels
24 provided by a State, municipality or other public agency,
25 outside of harbor lines, and serving essential needs of gen-

1 eral commerce and navigation; surveys and charting of
2 northern and northwestern lakes and connecting waters;
3 clearing and straightening channels; and removal of ob-
4 structions to navigation, \$1,864,464,000, to remain avail-
5 able until expended, of which such sums as become avail-
6 able in the Harbor Maintenance Trust Fund, pursuant to
7 Public Law 99–662, may be derived from that Fund, and
8 of which such sums as become available from the special
9 account established by the Land and Water Conservation
10 Act of 1965, as amended (16 U.S.C. 460l), may be derived
11 from that account for construction, operation, and mainte-
12 nance of outdoor recreation facilities: *Provided*, That with
13 \$1,500,000 of the funds appropriated herein, the Sec-
14 retary of the Army, acting through the Chief of Engineers,
15 is directed to perform cultural resource mitigation and
16 recreation improvements at Waco Lake, Texas, at full
17 Federal expense notwithstanding the provisions of the
18 Water Supply Act of 1958: *Provided further*, That the Sec-
19 retary of the Army, acting through the Chief of Engineers,
20 is directed to use \$2,000,000 of the funds appropriated
21 herein to grade the basin within the Hansen Dam feature
22 of the Los Angeles County Drainage Area, California,
23 project to enhance and maintain flood capacity and to pro-
24 vide for future use of the basin for compatible purposes
25 consistent with the Master Plan including recreation and

1 environmental restoration: *Provided further*, That the Sec-
2 retary of the Army, acting through the Chief of Engineers,
3 is directed to use \$1,000,000 of the funds appropriated
4 herein to fully investigate the development of an upland
5 disposal site recycling program on the Black Warrior and
6 Tombigbee Rivers project and the Apalachicola, Chat-
7 tahoochee and Flint Rivers project: *Provided further*,
8 That, for the Raritan River Basin, Green Brook Sub-
9 Basin, New Jersey, project, the Secretary of the Army,
10 acting through the Chief of Engineers, is directed to im-
11 plement the locally preferred plan for the element in the
12 western portion of Middlesex Borough, New Jersey, which
13 includes the buyout of up to 22 homes, and flood proofing
14 of four commercial buildings along Prospect Place and
15 Union Avenue, and also the buyout of up to three commer-
16 cial buildings along Raritan and Lincoln Avenues, at a
17 total estimated cost of \$15,000,000, with an estimated
18 Federal cost of \$11,500,000 and an estimated non-Fed-
19 eral cost of \$3,500,000.

20 **REGULATORY PROGRAM**

21 For expenses necessary for administration of laws
22 pertaining to regulation of navigable waters and wetlands,
23 \$128,000,000, to remain available until expended.

1 \$5,000); and during the current fiscal year the Revolving
2 Fund, Corps of Engineers, shall be available for purchase
3 (not to exceed 100 for replacement only) and hire of pas-
4 senger motor vehicles.

5 GENERAL PROVISIONS

6 CORPS OF ENGINEERS—CIVIL

7 SEC. 101. Section 110(3)(B)(ii) of division B, title
8 I of Public Law 106–554 is amended by inserting the fol-
9 lowing before the period: “: *Provided*, That the Secretary
10 shall credit the San Gabriel Water Quality Authority with
11 the value of all prior expenditures by the non-Federal in-
12 terests that are compatible with the purposes of this Act”.

13 SEC. 102. Except for the historic scheduled mainte-
14 nance dredging in the Delaware River, none of the funds
15 appropriated in this Act shall be used to operate the
16 dredge McFARLAND other than in active ready reserve
17 for urgent dredging, emergencies and in support of na-
18 tional defense.

19 SEC. 103. (a) The Secretary of the Army, acting
20 through the Chief of Engineers, is directed to include an
21 alternatives analysis of a multipurpose Auburn Dam as
22 a part of the Sacramento District’s current American
23 River watershed long-term study.

1 (b) The project purposes of a multipurpose Auburn
2 Dam shall include hydropower, water supply, flood control,
3 and ecosystem restoration.

4 SEC. 104. (a) CONVEYANCE AUTHORIZED.—The Sec-
5 retary of the Army shall convey to the Blue Township Fire
6 District, Blue Township, Kansas, by quitclaim deed and
7 without consideration, all right, title, and interest of the
8 United States in and to a parcel of land consisting of ap-
9 proximately 4.35 acres located in Pottawatomie County,
10 Tuttle Creek Lake, Kansas.

11 (b) DESCRIPTION OF PROPERTY.—The exact acreage
12 and legal description of the real property to be conveyed
13 under subsection (a) shall be determined by a survey satis-
14 factory to the Secretary.

15 (c) REVERSION.—If the Secretary determines that
16 the property conveyed under subsection (a) ceases to be
17 held in public ownership or to be used as a site for a fire
18 station, all right, title, and interest in and to the property
19 shall revert to the United States, at the option of the
20 United States.

21 SEC. 105. For those shore protection projects funded
22 in this Act which have Project Cooperation Agreements
23 in place, the Secretary of the Army is directed to proceed
24 with those projects in accordance with the cost sharing
25 specified in the Project Cooperation Agreement.

1 WATER AND RELATED RESOURCES
2 (INCLUDING TRANSFER OF FUNDS)

3 For management, development, and restoration of
4 water and related natural resources and for related activi-
5 ties, including the operation, maintenance and rehabilita-
6 tion of reclamation and other facilities, participation in
7 fulfilling related Federal responsibilities to Native Ameri-
8 cans, and related grants to, and cooperative and other
9 agreements with, State and local governments, Indian
10 tribes, and others, \$691,160,000, to remain available until
11 expended, of which \$14,649,000 shall be available for
12 transfer to the Upper Colorado River Basin Fund and
13 \$31,442,000 shall be available for transfer to the Lower
14 Colorado River Basin Development Fund; of which such
15 amounts as may be necessary may be advanced to the Col-
16 orado River Dam Fund; of which \$8,000,000 shall be for
17 on-reservation water development, feasibility studies, and
18 related administrative costs under Public Law 106-163;
19 and of which not more than \$500,000 is for high priority
20 projects which shall be carried out by the Youth Conserva-
21 tion Corps, as authorized by 16 U.S.C. 1706: *Provided,*
22 That such transfers may be increased or decreased within
23 the overall appropriation under this heading: *Provided fur-*
24 *ther,* That of the total appropriated, the amount for pro-
25 gram activities that can be financed by the Reclamation
26 Fund or the Bureau of Reclamation special fee account

1 established by 16 U.S.C. 4601–6a(i) shall be derived from
2 that Fund or account: *Provided further*, That funds con-
3 tributed under 43 U.S.C. 395 are available until expended
4 for the purposes for which contributed: *Provided further*,
5 That funds advanced under 43 U.S.C. 397a shall be cred-
6 ited to this account and are available until expended for
7 the same purposes as the sums appropriated under this
8 heading: *Provided further*, That funds available for ex-
9 penditure for the Departmental Irrigation Drainage Pro-
10 gram may be expended by the Bureau of Reclamation for
11 site remediation on a non-reimbursable basis: *Provided*
12 *further*, That section 301 of Public Law 102–250, Rec-
13 lamation States Emergency Drought Relief Act of 1991,
14 as amended, is amended further by inserting “2001, and
15 2002” in lieu of “and 2001”.

16 BUREAU OF RECLAMATION LOAN PROGRAM ACCOUNT

17 For the cost of direct loans and/or grants,
18 \$7,215,000, to remain available until expended, as author-
19 ized by the Small Reclamation Projects Act of August 6,
20 1956, as amended (43 U.S.C. 422a–422l): *Provided*, That
21 such costs, including the cost of modifying such loans,
22 shall be as defined in section 502 of the Congressional
23 Budget Act of 1974, as amended: *Provided further*, That
24 these funds are available to subsidize gross obligations for
25 the principal amount of direct loans not to exceed
26 \$26,000,000.

1 In addition, for administrative expenses necessary to
2 carry out the program for direct loans and/or grants,
3 \$280,000, to remain available until expended: *Provided*,
4 That of the total sums appropriated, the amount of pro-
5 gram activities that can be financed by the Reclamation
6 Fund shall be derived from that Fund.

7 CENTRAL VALLEY PROJECT RESTORATION FUND

8 For carrying out the programs, projects, plans, and
9 habitat restoration, improvement, and acquisition provi-
10 sions of the Central Valley Project Improvement Act,
11 \$55,039,000, to be derived from such sums as may be col-
12 lected in the Central Valley Project Restoration Fund pur-
13 suant to sections 3407(d), 3404(c)(3), 3405(f), and
14 3406(c)(1) of Public Law 102-575, to remain available
15 until expended: *Provided*, That the Bureau of Reclamation
16 is directed to assess and collect the full amount of the
17 additional mitigation and restoration payments authorized
18 by section 3407(d) of Public Law 102-575.

19 POLICY AND ADMINISTRATION

20 For necessary expenses of policy, administration, and
21 related functions in the office of the Commissioner, the
22 Denver office, and offices in the five regions of the Bureau
23 of Reclamation, to remain available until expended,
24 \$52,968,000, to be derived from the Reclamation Fund
25 and be nonreimbursable as provided in 43 U.S.C. 377:
26 *Provided*, That no part of any other appropriation in this

1 Act shall be available for activities or functions budgeted
2 as policy and administration expenses.

3 ADMINISTRATIVE PROVISION

4 Appropriations for the Bureau of Reclamation shall
5 be available for purchase of not to exceed four passenger
6 motor vehicles for replacement only.

7 GENERAL PROVISIONS

8 DEPARTMENT OF THE INTERIOR

9 SEC. 201. None of the funds made available in this
10 Act may be used by the Bureau of Reclamation (either
11 directly or by making the funds available to an entity
12 under a contract) for the issuance of permits for, or any
13 other activity related to the management of, commercial
14 rafting activities within the Auburn State Recreation
15 Area, California, until the requirements of the National
16 Environmental Policy Act of 1969 (42 U.S.C. 4321 et
17 seq.) and the Federal Water Pollution Control Act (33
18 U.S.C. 12151 et seq.) are met with respect to such com-
19 mercial rafting activities.

20 SEC. 202. Section 101(a)(6)(C) of the Water Re-
21 sources Development Act of 1999 (113 Stat. 274) is
22 amended to read as follows:

23 “(C) MAKEUP OF WATER SHORTAGES
24 CAUSED BY FLOOD CONTROL OPERATION.—The
25 Secretary of the Interior shall enter into, or
26 modify, such agreements with the Sacramento

1 Area Flood Control Agency regarding the oper-
2 ation of Folsom Dam and Reservoir, as may be
3 necessary, in order that, notwithstanding any
4 prior agreement or provision of law, 100 per-
5 cent of the water needed to make up for any
6 water shortage caused by variable flood control
7 operation during any year at Folsom Dam and
8 resulting in a significant impact to the environ-
9 ment or to recreation shall be replaced, to the
10 extent that water is available, as determined by
11 the Secretary of the Interior, with 100 percent
12 of the cost of such available water borne by the
13 Sacramento Area Flood Control Agency.”.

14 TITLE III

15 DEPARTMENT OF ENERGY

16 ENERGY PROGRAMS

17 ENERGY SUPPLY

18 For Department of Energy expenses including the
19 purchase, construction and acquisition of plant and capital
20 equipment, and other expenses necessary for energy sup-
21 ply activities in carrying out the purposes of the Depart-
22 ment of Energy Organization Act (42 U.S.C. 7101 et
23 seq.), including the acquisition or condemnation of any
24 real property or any facility or for plant or facility acquisi-
25 tion, construction, or expansion; and the purchase of not

1 cluding the acquisition or condemnation of any real prop-
2 erty or facility or for plant or facility acquisition, construc-
3 tion, or expansion, and purchase of not to exceed 25 pas-
4 senger motor vehicles for replacement only,
5 \$3,166,395,000, to remain available until expended.

6 NUCLEAR WASTE DISPOSAL

7 For nuclear waste disposal activities to carry out the
8 purposes of Public Law 97–425, as amended, including
9 the acquisition of real property or facility construction or
10 expansion, \$133,000,000, to remain available until ex-
11 pended and to be derived from the Nuclear Waste Fund:
12 *Provided*, That not to exceed \$2,500,000 may be provided
13 to the State of Nevada solely for expenditures, other than
14 salaries and expenses of State employees, to conduct sci-
15 entific oversight responsibilities pursuant to the Nuclear
16 Waste Policy Act of 1982, Public Law 97–425, as amend-
17 ed: *Provided further*, That \$6,000,000 shall be provided
18 to affected units of local governments, as defined in Public
19 Law 97–425, to conduct appropriate activities pursuant
20 to the Act: *Provided further*, That the distribution of the
21 funds as determined by the units of local government shall
22 be approved by the Department of Energy: *Provided fur-*
23 *ther*, That the funds for the State of Nevada shall be made
24 available solely to the Nevada Division of Emergency Man-
25 agement by direct payment and units of local government

1 by direct payment: *Provided further*, That within 90 days
2 of the completion of each Federal fiscal year, the Nevada
3 Division of Emergency Management and the Governor of
4 the State of Nevada and each local entity shall provide
5 certification to the Department of Energy that all funds
6 expended from such payments have been expended for ac-
7 tivities authorized by Public Law 97-425 and this Act.
8 Failure to provide such certification shall cause such enti-
9 ty to be prohibited from any further funding provided for
10 similar activities: *Provided further*, That none of the funds
11 herein appropriated may be: (1) used directly or indirectly
12 to influence legislative action on any matter pending be-
13 fore Congress or a State legislature or for lobbying activity
14 as provided in 18 U.S.C. 1913; (2) used for litigation ex-
15 penses; or (3) used to support multi-State efforts or other
16 coalition building activities inconsistent with the restric-
17 tions contained in this Act: *Provided further*, That all pro-
18 ceeds and recoveries realized by the Secretary in carrying
19 out activities authorized by the Nuclear Waste Policy Act
20 of 1982, Public Law 97-425, as amended, including but
21 not limited to, any proceeds from the sale of assets, shall
22 be available without further appropriation and shall re-
23 main available until expended.

1 DEPARTMENTAL ADMINISTRATION
2 (INCLUDING TRANSFER OF FUNDS)

3 For salaries and expenses of the Department of En-
4 ergy necessary for departmental administration in car-
5 rying out the purposes of the Department of Energy Orga-
6 nization Act (42 U.S.C. 7101 et seq.), including the hire
7 of passenger motor vehicles and official reception and rep-
8 resentation expenses (not to exceed \$35,000),
9 \$209,611,000, to remain available until expended, plus
10 such additional amounts as necessary to cover increases
11 in the estimated amount of cost of work for others not-
12 withstanding the provisions of the Anti-Deficiency Act (31
13 U.S.C. 1511 et seq.): *Provided*, That such increases in
14 cost of work are offset by revenue increases of the same
15 or greater amount, to remain available until expended:
16 *Provided further*, That of the funds provided to the De-
17 partment of Energy under title III of Public Law 105-
18 277 for activities related to achieving Year 2000 conver-
19 sion of Federal information technology systems and re-
20 lated expenses, remaining balances, estimated to be
21 \$1,480,000, may be transferred to this account, and shall
22 remain available until expended, for continuation of infor-
23 mation technology enhancement activities: *Provided fur-*
24 *ther*, That moneys received by the Department for mis-
25 cellaneous revenues estimated to total \$137,810,000 in

1 fiscal year 2002 may be retained and used for operating
2 expenses within this account, and may remain available
3 until expended, as authorized by section 201 of Public
4 Law 95–238, notwithstanding the provisions of 31 U.S.C.
5 3302: *Provided further*, That the sum herein appropriated
6 shall be reduced by the amount of miscellaneous revenues
7 received during fiscal year 2002 so as to result in a final
8 fiscal year 2002 appropriation from the General Fund es-
9 timated at not more than \$71,801,000.

10 OFFICE OF THE INSPECTOR GENERAL

11 For necessary expenses of the Office of the Inspector
12 General in carrying out the provisions of the Inspector
13 General Act of 1978, as amended, \$32,430,000, to remain
14 available until expended.

15 ATOMIC ENERGY DEFENSE ACTIVITIES

16 NATIONAL NUCLEAR SECURITY

17 ADMINISTRATON

18 WEAPONS ACTIVITIES

19 For Department of Energy expenses, including the
20 purchase, construction and acquisition of plant and capital
21 equipment and other incidental expenses necessary for
22 atomic energy defense weapons activities in carrying out
23 the purposes of the Department of Energy Organization
24 Act (42 U.S.C. 7101 et seq.), including the acquisition or
25 condemnation of any real property or any facility or for

1 plant or facility acquisition, construction, or expansion;
2 and the purchase of not to exceed 11 passenger motor ve-
3 hicles for replacement only, \$5,123,888,000, to remain
4 available until expended.

5 DEFENSE NUCLEAR NONPROLIFERATION

6 For Department of Energy expenses, including the
7 purchase, construction and acquisition of plant and capital
8 equipment and other incidental expenses necessary for
9 atomic energy defense, defense nuclear nonproliferation
10 activities, in carrying out the purposes of the Department
11 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
12 cluding the acquisition or condemnation of any real prop-
13 erty or any facility or for plant or facility acquisition, con-
14 struction, or expansion, \$845,341,000, to remain available
15 until expended.

16 NAVAL REACTORS

17 For Department of Energy expenses necessary for
18 naval reactors activities to carry out the Department of
19 Energy Organization Act (42 U.S.C. 7101 et seq.), includ-
20 ing the acquisition (by purchase, condemnation, construc-
21 tion, or otherwise) of real property, plant, and capital
22 equipment, facilities, and facility expansion,
23 \$688,045,000, to remain available until expended.

1 OFFICE OF THE ADMINISTRATOR

2 For necessary expenses of the Office of the Adminis-
3 trator of the National Nuclear Security Administration,
4 including official reception and representation expenses
5 (not to exceed \$12,000), \$10,000,000, to remain available
6 until expended.

7 ENVIRONMENTAL AND OTHER DEFENSE

8 ACTIVITIES

9 DEFENSE ENVIRONMENTAL RESTORATION AND WASTE
10 MANAGEMENT

11 For Department of Energy expenses, including the
12 purchase, construction and acquisition of plant and capital
13 equipment and other expenses necessary for atomic energy
14 defense environmental restoration and waste management
15 activities in carrying out the purposes of the Department
16 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
17 cluding the acquisition or condemnation of any real prop-
18 erty or any facility or for plant or facility acquisition, con-
19 struction, or expansion; and the purchase of not to exceed
20 30 passenger motor vehicles, of which 27 shall be for re-
21 placement only, \$5,174,539,000, to remain available until
22 expended.

23 DEFENSE FACILITIES CLOSURE PROJECTS

24 For expenses of the Department of Energy to accel-
25 erate the closure of defense environmental management

1 sites, including the purchase, construction and acquisition
2 of plant and capital equipment and other necessary ex-
3 penses, \$1,092,878,000, to remain available until ex-
4 pended.

5 DEFENSE ENVIRONMENTAL MANAGEMENT

6 PRIVATIZATION

7 For Department of Energy expenses for privatization
8 projects necessary for atomic energy defense environ-
9 mental management activities authorized by the Depart-
10 ment of Energy Organization Act (42 U.S.C. 7101 et
11 seq.), \$143,208,000, to remain available until expended.

12 OTHER DEFENSE ACTIVITIES

13 For Department of Energy expenses, including the
14 purchase, construction and acquisition of plant and capital
15 equipment and other expenses necessary for atomic energy
16 defense, other defense activities, in carrying out the pur-
17 poses of the Department of Energy Organization Act (42
18 U.S.C. 7101 et seq.), including the acquisition or con-
19 demnation of any real property or any facility or for plant
20 or facility acquisition, construction, or expansion,
21 \$487,464,000, to remain available until expended.

22 DEFENSE NUCLEAR WASTE DISPOSAL

23 For nuclear waste disposal activities to carry out the
24 purposes of Public Law 97-425, as amended, including
25 the acquisition of real property or facility construction or

1 until expended for the sole purpose of making purchase
2 power and wheeling expenditures.

3 OPERATION AND MAINTENANCE, SOUTHWESTERN

4 POWER ADMINISTRATION

5 For necessary expenses of operation and maintenance
6 of power transmission facilities and of marketing electric
7 power and energy, and for construction and acquisition of
8 transmission lines, substations and appurtenant facilities,
9 and for administrative expenses, including official recep-
10 tion and representation expenses in an amount not to ex-
11 ceed \$1,500 in carrying out the provisions of section 5
12 of the Flood Control Act of 1944 (16 U.S.C. 825s), as
13 applied to the southwestern power area, \$28,038,000, to
14 remain available until expended; in addition, notwith-
15 standing the provisions of 31 U.S.C. 3302, not to exceed
16 \$5,200,000 in reimbursements, to remain available until
17 expended: *Provided*, That up to \$1,512,000 collected by
18 the Southwestern Power Administration pursuant to the
19 Flood Control Act to recover purchase power and wheeling
20 expenses shall be credited to this account as offsetting col-
21 lections, to remain available until expended for the sole
22 purpose of making purchase power and wheeling expendi-
23 tures.

1 CONSTRUCTION, REHABILITATION, OPERATION AND
2 MAINTENANCE, WESTERN AREA POWER ADMINIS-
3 TRATION

4 For carrying out the functions authorized by title III,
5 section 302(a)(1)(E) of the Act of August 4, 1977 (42
6 U.S.C. 7152), and other related activities including con-
7 servation and renewable resources programs as author-
8 ized, including official reception and representation ex-
9 penses in an amount not to exceed \$1,500, \$172,165,000,
10 to remain available until expended, of which \$166,651,000
11 shall be derived from the Department of the Interior Rec-
12 lamation Fund: *Provided*, That of the amount herein ap-
13 propriated, \$1,227,000 is for deposit into the Utah Rec-
14 lamation Mitigation and Conservation Account pursuant
15 to title IV of the Reclamation Projects Authorization and
16 Adjustment Act of 1992: *Provided further*, That up to
17 \$152,624,000 collected by the Western Area Power Ad-
18 ministration pursuant to the Flood Control Act of 1944
19 and the Reclamation Project Act of 1939 to recover pur-
20 chase power and wheeling expenses shall be credited to
21 this account as offsetting collections, to remain available
22 until expended for the sole purpose of making purchase
23 power and wheeling expenditures.

1 FALCON AND AMISTAD OPERATING AND MAINTENANCE
2 FUND

3 For operation, maintenance, and emergency costs for
4 the hydroelectric facilities at the Falcon and Amistad
5 Dams, \$2,663,000, to remain available until expended,
6 and to be derived from the Falcon and Amistad Operating
7 and Maintenance Fund of the Western Area Power Ad-
8 ministration, as provided in section 423 of the Foreign
9 Relations Authorization Act, Fiscal Years 1994 and 1995.

10 FEDERAL ENERGY REGULATORY COMMISSION
11 SALARIES AND EXPENSES

12 For necessary expenses of the Federal Energy Regu-
13 latory Commission to carry out the provisions of the De-
14 partment of Energy Organization Act (42 U.S.C. 7101 et
15 seq.), including services as authorized by 5 U.S.C. 3109,
16 the hire of passenger motor vehicles, and official reception
17 and representation expenses (not to exceed \$3,000),
18 \$181,155,000, to remain available until expended: *Pro-*
19 *vided*, That notwithstanding any other provision of law,
20 not to exceed \$181,155,000 of revenues from fees and an-
21 nual charges, and other services and collections in fiscal
22 year 2002 shall be retained and used for necessary ex-
23 penses in this account, and shall remain available until
24 expended: *Provided further*, That the sum herein appro-
25 priated from the General Fund shall be reduced as reve-

1 nues are received during fiscal year 2002 so as to result
2 in a final fiscal year 2002 appropriation from the General
3 Fund estimated at not more than \$0: *Provided further,*
4 That none of the funds made available to the Federal En-
5 ergy Regulatory Commission in this or any other Act may
6 be used to authorize construction of the Gulfstream Nat-
7 ural Gas Project.

8 GENERAL PROVISIONS

9 DEPARTMENT OF ENERGY

10 SEC. 301. (a) None of the funds appropriated by this
11 Act may be used to award a management and operating
12 contract, or award a significant extension or expansion to
13 an existing management and operating contract, unless
14 such contract is awarded using competitive procedures or
15 the Secretary of Energy grants, on a case-by-case basis,
16 a waiver to allow for such a deviation. The Secretary may
17 not delegate the authority to grant such a waiver.

18 (b) At least 60 days before a contract award for
19 which the Secretary intends to grant such a waiver, the
20 Secretary shall submit to the Subcommittees on Energy
21 and Water Development of the Committees on Appropria-
22 tions of the House of Representatives and the Senate a
23 report notifying the Subcommittees of the waiver and set-
24 ting forth, in specificity, the substantive reasons why the

1 Secretary believes the requirement for competition should
2 be waived for this particular award.

3 SEC. 302. None of the funds appropriated by this Act
4 may be used to—

5 (1) develop or implement a workforce restruc-
6 turing plan that covers employees of the Department
7 of Energy; or

8 (2) provide enhanced severance payments or
9 other benefits for employees of the Department of
10 Energy,

11 under section 3161 of the National Defense Authorization
12 Act for Fiscal Year 1993 (Public Law 102–484; 42 U.S.C.
13 7274h).

14 SEC. 303. None of the funds appropriated by this Act
15 may be used to augment the \$21,900,000 made available
16 for obligation by this Act for severance payments and
17 other benefits and community assistance grants under sec-
18 tion 3161 of the National Defense Authorization Act for
19 Fiscal Year 1993 (Public Law 102–484; 42 U.S.C.
20 7274h) unless the Department of Energy submits a re-
21 programming request subject to approval by the appro-
22 priate Congressional committees.

23 SEC. 304. None of the funds appropriated by this Act
24 may be used to prepare or initiate Requests For Proposals

1 (RFPs) for a program if the program has not been funded
2 by Congress.

3 (TRANSFERS OF UNEXPENDED BALANCES)

4 SEC. 305. The unexpended balances of prior appro-
5 priations provided for activities in this Act may be trans-
6 ferred to appropriation accounts for such activities estab-
7 lished pursuant to this title. Balances so transferred may
8 be merged with funds in the applicable established ac-
9 counts and thereafter may be accounted for as one fund
10 for the same time period as originally enacted.

11 SEC. 306. None of the funds in this or any other Act
12 for the Administrator of the Bonneville Power Administra-
13 tion may be used to enter into any agreement to perform
14 energy efficiency services outside the legally defined Bon-
15 neville service territory, with the exception of services pro-
16 vided internationally, including services provided on a re-
17 imburseable basis, unless the Administrator certifies in ad-
18 vance that such services are not available from private sec-
19 tor businesses.

20 SEC. 307. None of the funds appropriated in other
21 than Energy and Water Development Appropriations Acts
22 may be used for Department of Energy laboratory di-
23 rected research and development (LDRD).

24 SEC. 308. Not later than March 31, 2002, the Sec-
25 retary of Energy, after consultation with the Nuclear Reg-
26 ulatory Commission and the Occupational Safety and

1 Health Administration, shall transmit to the Committee
2 on Appropriations, the Committee on Energy and Com-
3 merce, and the Committee on Education and the Work-
4 force of the House of Representatives, and to the Com-
5 mittee on Appropriations, the Committee on Energy and
6 Natural Resources, the Committee on Environment and
7 Public Works, and the Committee on Health, Education,
8 Labor, and Pensions of the Senate, a report containing
9 an implementation plan for the transfer, on October 1,
10 2002—

11 (1) from the Department of Energy to the Nu-
12 clear Regulatory Commission of regulatory authority
13 over nuclear safety at the Department of Energy's
14 science laboratories; and

15 (2) from the Department of Energy to the Oc-
16 cupational Safety and Health Administration of reg-
17 ulatory authority over worker safety at such labora-
18 tories.

19 Out of funds appropriated by this Act for Environment,
20 Safety, and Health, the Secretary of Energy shall transfer
21 \$4,000,000 to the Nuclear Regulatory Commission and
22 \$120,000 to the Occupational Safety and Health Adminis-
23 tration. For purposes of this section, the Department of
24 Energy's science laboratories are the Argonne National
25 Laboratory, the Brookhaven National Laboratory, the

1 Lawrence Berkeley National Laboratory, the Oak Ridge
2 National Laboratory, the Pacific Northwest National Lab-
3 oratory, the Ames Laboratory, the Fermi National Accel-
4 erator Laboratory, the Princeton Plasma Physics Labora-
5 tory, the Stanford Linear Accelerator Center, and the
6 Thomas Jefferson National Accelerator Facility.

7 SEC. 309. When the Department of Energy makes
8 a user facility available to universities and other potential
9 users, or seeks input from universities and other potential
10 users regarding significant characteristics or equipment in
11 a user facility or a proposed user facility, the Department
12 shall ensure broad public notice of such availability or
13 such need for input to universities and other potential
14 users. When the Department of Energy considers the par-
15 ticipation of a university or other potential user in the es-
16 tablishment or operation of a user facility, the Department
17 shall employ full and open competition in selecting such
18 a participant. For purposes of this section, the term “user
19 facility” includes, but is not limited to: a user facility as
20 described in section 2203(a)(2) of the Energy Policy Act
21 of 1992 (42 U.S.C. 13503(a)(2)); a National Nuclear Se-
22 curity Administration Defense Programs Technology De-
23 ployment Center/User Facility; and any other Department
24 facility designated by the Department as a user facility.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended notwithstanding section 405 of said Act, and, for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, \$71,290,000, to remain available until expended.

DEFENSE NUCLEAR FACILITIES SAFETY

BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–456, section 1441, \$18,500,000, to remain available until expended.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954,

1 as amended, including official representation expenses
2 (not to exceed \$15,000), and purchase of promotional
3 items for use in the recruitment of individuals for employ-
4 ment, \$516,900,000, to remain available until expended:
5 *Provided*, That of the amount appropriated herein,
6 \$23,650,000 shall be derived from the Nuclear Waste
7 Fund: *Provided further*, That revenues from licensing fees,
8 inspection services, and other services and collections esti-
9 mated at \$473,520,000 in fiscal year 2002 shall be re-
10 tained and used for necessary salaries and expenses in this
11 account, notwithstanding 31 U.S.C. 3302, and shall re-
12 main available until expended: *Provided further*, That the
13 sum herein appropriated shall be reduced by the amount
14 of revenues received during fiscal year 2002 so as to result
15 in a final fiscal year 2002 appropriation estimated at not
16 more than \$43,380,000.

17 OFFICE OF INSPECTOR GENERAL

18 For necessary expenses of the Office of Inspector
19 General in carrying out the provisions of the Inspector
20 General Act of 1978, as amended, \$6,180,000, to remain
21 available until expended: *Provided*, That revenues from li-
22 censing fees, inspection services, and other services and
23 collections estimated at \$5,933,000 in fiscal year 2002
24 shall be retained and be available until expended, for nec-
25 essary salaries and expenses in this account notwith-

1 standing 31 U.S.C. 3302: *Provided further*, That the sum
2 herein appropriated shall be reduced by the amount of rev-
3 enues received during fiscal year 2002 so as to result in
4 a final fiscal year 2002 appropriation estimated at not
5 more than \$247,000.

6 NUCLEAR WASTE TECHNICAL REVIEW BOARD

7 SALARIES AND EXPENSES

8 For necessary expenses of the Nuclear Waste Tech-
9 nical Review Board, as authorized by Public Law 100-
10 203, section 5051, \$3,100,000, to be derived from the Nu-
11 clear Waste Fund, and to remain available until expended.

12 TITLE V

13 GENERAL PROVISIONS

14 SEC. 501. None of the funds appropriated by this Act
15 may be used in any way, directly or indirectly, to influence
16 congressional action on any legislation or appropriation
17 matters pending before Congress, other than to commu-
18 nicate to Members of Congress as described in 18 U.S.C.
19 1913.

20 SEC. 502. (a) PURCHASE OF AMERICAN-MADE
21 EQUIPMENT AND PRODUCTS.—It is the sense of the Con-
22 gress that, to the greatest extent practicable, all equip-
23 ment and products purchased with funds made available
24 in this Act should be American-made.

1 (b) NOTICE REQUIREMENT.—In providing financial
2 assistance to, or entering into any contract with, any enti-
3 ty using funds made available in this Act, the head of each
4 Federal agency, to the greatest extent practicable, shall
5 provide to such entity a notice describing the statement
6 made in subsection (a) by the Congress.

7 (c) PROHIBITION OF CONTRACTS WITH PERSONS
8 FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—
9 If it has been finally determined by a court or Federal
10 agency that any person intentionally affixed a label bear-
11 ing a “Made in America” inscription, or any inscription
12 with the same meaning, to any product sold in or shipped
13 to the United States that is not made in the United
14 States, the person shall be ineligible to receive any con-
15 tract or subcontract made with funds made available in
16 this Act, pursuant to the debarment, suspension, and ineli-
17 gibility procedures described in sections 9.400 through
18 9.409 of title 48, Code of Federal Regulations.

19 SEC. 503. (a) None of the funds appropriated or oth-
20 erwise made available by this Act may be used to deter-
21 mine the final point of discharge for the interceptor drain
22 for the San Luis Unit until development by the Secretary
23 of the Interior and the State of California of a plan, which
24 shall conform to the water quality standards of the State
25 of California as approved by the Administrator of the En-

1 vironmental Protection Agency, to minimize any detri-
2 mental effect of the San Luis drainage waters.

3 (b) The costs of the Kesterson Reservoir Cleanup
4 Program and the costs of the San Joaquin Valley Drain-
5 age Program shall be classified by the Secretary of the
6 Interior as reimbursable or nonreimbursable and collected
7 until fully repaid pursuant to the “Cleanup Program—
8 Alternative Repayment Plan” and the “SJVDP—Alter-
9 native Repayment Plan” described in the report entitled
10 “Repayment Report, Kesterson Reservoir Cleanup Pro-
11 gram and San Joaquin Valley Drainage Program, Feb-
12 ruary 1995”, prepared by the Department of the Interior,
13 Bureau of Reclamation. Any future obligations of funds
14 by the United States relating to, or providing for, drainage
15 service or drainage studies for the San Luis Unit shall
16 be fully reimbursable by San Luis Unit beneficiaries of
17 such service or studies pursuant to Federal reclamation
18 law.

19 This Act may be cited as the “Energy and Water De-
20 velopment Appropriations Act, 2002”.

Union Calendar No. 61

107TH CONGRESS
1ST SESSION

H. R. 2311

[Report No. 107-112]

A BILL

Making appropriations for energy and water development for the fiscal year ending September 30, 2002, and for other purposes.

JUNE 26, 2001

Committed to the Committee of the Whole House on
the State of the Union and ordered to be printed