IN THE SENATE OF THE UNITED STATES

APRIL 26, 2012

Mrs. FEINSTEIN, from the Committee on Appropriations, reported the following original bill; which was read twice and placed on the calendar

A BILL

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2013, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,
That the following sums are appropriated, out of any
money in the Treasury not otherwise appropriated, for en-
ergy and water development and related agencies for the
fiscal year ending September 30, 2013, and for other pur-
poses, namely:

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TITLE I

CORPS OF ENGINEERS—CIVIL

DEPARTMENT OF THE ARMY

Corps of Engineers—civil

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related efforts.

GENERAL INVESTIGATIONS

For expenses necessary where authorized by law for the collection and study of basic information pertaining to river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related needs; for surveys and detailed studies, and plans and specifications of proposed river and harbor, flood and storm damage reduction, shore protection, and aquatic ecosystem restoration, projects and related efforts prior to construction; for restudy of authorized projects; and for miscellaneous investigations, and, when authorized by law, surveys and detailed studies, and plans and specifications of projects prior to construction, $125,000,000, to remain available until expended.
CONSTRUCTION, GENERAL

For expenses necessary for the construction of river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related projects authorized by law; for conducting detailed studies, and plans and specifications, of such projects (including those involving participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such detailed studies, and plans and specifications, shall not constitute a commitment of the Government to construction); $1,700,000,000, to remain available until expended; of which such sums as are necessary to cover the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund as authorized by Public Law 104–303; and of which such sums as are necessary to cover one-half of the costs of construction, replacement, rehabilitation, and expansion of inland waterways projects shall be derived from the Inland Waterways Trust Fund: Provided, That during the fiscal year period covered by this Act, no more than 25 percent of the funding proposed for Olmsted Lock and Dam, Ohio River, Illinois and Kentucky, shall be derived from the Inland Waterways Trust Fund.
MISSISSIPPI RIVER AND TRIBUTARIES

For expenses necessary for flood damage reduction projects and related efforts in the Mississippi River alluvial valley below Cape Girardeau, Missouri, as authorized by law, $253,000,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of eligible operation and maintenance costs for inland harbors shall be derived from the Harbor Maintenance Trust Fund.

OPERATION AND MAINTENANCE

For expenses necessary for the operation, maintenance, and care of existing river and harbor, flood and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law; providing security for infrastructure owned or operated by the Corps, including administrative buildings and laboratories; maintaining harbor channels provided by a State, municipality, or other public agency that serve essential navigation needs of general commerce, where authorized by law; surveying and charting northern and northwestern lakes and connecting waters; clearing and straightening channels; and removing obstructions to navigation, $2,404,000,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of eligible operation and maintenance costs for coastal harbors and chan-
nels, and for inland harbors shall be derived from the Har-
bor Maintenance Trust Fund; of which such sums as be-
come available from the special account for the Corps of
Engineers established by the Land and Water Conserva-
tion Fund Act of 1965 (16 U.S.C. 460l–6a(i)), as amend-
ed, shall be derived from that account for resource protec-
tion, research, interpretation, and maintenance activities
related to resource protection in the areas at which out-
door recreation is available; and of which such sums as
become available from fees collected under section 217 of
Public Law 104–303 shall be used to cover the cost of
operation and maintenance of the dredged material dis-
posal facilities for which such fees have been collected:

Provided, That 1 percent of the total amount of funds pro-
vided for each of the programs, projects or activities fund-
ed under this heading shall not be allocated to a field oper-
ating activity prior to the beginning of the fourth quarter
of the fiscal year and shall be available for use by the Chief
of Engineers to fund such emergency activities as the
Chief of Engineers determines to be necessary and appro-
priate, and that the Chief of Engineers shall allocate dur-
ing the fourth quarter any remaining funds which have
not been used for emergency activities proportionally in
accordance with the amounts provided for the programs,
projects or activities.
REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $199,000,000, to remain available until September 30, 2014.

FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

For expenses necessary to clean up contamination from sites in the United States resulting from work performed as part of the Nation’s early atomic energy program, $109,000,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary to prepare for flood, hurricane, and other natural disasters and support emergency operations, repairs, and other activities in response to such disasters as authorized by law, $30,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for the supervision and general administration of the civil works program in the headquarters of the Corps of Engineers and the offices of the Division Engineers; and for costs of management and operation of the Humphreys Engineer Center Support Activity, the Institute for Water Resources, the United States Army Engineer Research and Development Center, and the United States Army Corps of Engineers Finance Cen-
ter allocable to the civil works program, $182,000,000, to remain available until September 30, 2014, of which not to exceed $5,000 may be used for official reception and representation purposes and only during the current fiscal year: Provided, That no part of any other appropriation provided in title I of this Act shall be available to fund the civil works activities of the Office of the Chief of Engineers or the civil works executive direction and management activities of the division offices: Provided further, That any Flood Control and Coastal Emergencies appropriation may be used to fund the supervision and general administration of emergency operations, repairs, and other activities in response to any flood, hurricane, or other natural disaster.

OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY FOR CIVIL WORKS

For the Office of the Assistant Secretary of the Army for Civil Works as authorized by 10 U.S.C. 3016(b)(3), $5,000,000, to remain available until September 30, 2014.

ADMINISTRATIVE PROVISION

The Revolving Fund, Corps of Engineers, shall be available during the current fiscal year for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles for the civil works program.
GENERAL PROVISIONS, CORPS OF
ENGINEERS—CIVIL

(INCLUDING TRANSFERS OF FUNDS)

Sec. 101. (a) None of the funds provided in title I of this Act, or provided by previous appropriations Acts to the agencies or entities funded in title I of this Act that remain available for obligation or expenditure in fiscal year 2013, shall be available for obligation or expenditure through a reprogramming of funds that:

(1) creates or initiates a new program, project, or activity;

(2) eliminates a program, project, or activity;

(3) increases funds or personnel for any program, project, or activity for which funds have been denied or restricted by this Act, unless prior approval is received from the House and Senate Committees on Appropriations;

(4) proposes to use funds directed for a specific activity for a different purpose, unless prior approval is received from the House and Senate Committees on Appropriations;

(5) augments or reduces existing programs, projects or activities in excess of the amounts contained in subsections 6 through 10, unless prior ap-
proval is received from the House and Senate Com-
mittees on Appropriations;

(6) GENERAL INVESTIGATIONS.—For a base
level over $100,000, reprogramming of 25 percent of
the base amount up to a limit of $150,000 per
project, study or activity is allowed: Provided, That
for a base level less than $100,000, the reprogram-
ming limit is $25,000: Provided further, That up to
$25,000 may be reprogrammed into any continuing
study or activity that did not receive an appropria-
tion for existing obligations and concomitant admin-
istrative expenses;

(7) CONSTRUCTION, GENERAL.—For a base
level over $2,000,000, reprogramming of 15 percent
of the base amount up to a limit of $3,000,000 per
project, study or activity is allowed: Provided, That
for a base level less than $2,000,000, the re-
programming limit is $300,000: Provided further,
That up to $3,000,000 may be reprogrammed for
settled contractor claims, changed conditions, or real
estate deficiency judgments: Provided further, That
up to $300,000 may be reprogrammed into any con-
tinuing study or activity that did not receive an ap-
propriation for existing obligations and concomitant
administrative expenses;
(8) **Operation and Maintenance.**—Unlimited reprogramming authority is granted in order for the Corps to be able to respond to emergencies: *Provided*, That the Chief of Engineers must notify the House and Senate Committees on Appropriations of these emergency actions as soon thereafter as practicable: *Provided further*, That for a base level over $1,000,000, reprogramming of 15 percent of the base amount a limit of $5,000,000 per project, study or activity is allowed: *Provided further*, That for a base level less than $1,000,000, the reprogramming limit is $150,000: *Provided further*, That $150,000 may be reprogrammed into any continuing study or activity that did not receive an appropriation;

(9) **Mississippi River and Tributaries.**—The same reprogramming guidelines for the Investigations, Construction, and Operation and Maintenance portions of the Mississippi River and Tributaries Account as listed above; and

(10) **Formerly Utilized Sites Remedial Action Program.**—Reprogramming of up to 15 percent of the base of the receiving project is permitted.

(b) **De Minimus Reprogrammings.**—In no case should a reprogramming for less than $50,000 be sub-
mitted to the House and Senate Committees on Appropriations.

(c) CONTINUING AUTHORITY PROGRAM.—Subsection (a)(1) shall not apply to any project or activity funded under the continuing authorities program.

(d) Not later than 60 days after the date of enactment of this Act, the Corps of Engineers shall submit a report to the House and Senate Committees on Appropriations to establish the baseline for application of reprogramming and transfer authorities for the current fiscal year: Provided, That the report shall include:

(1) A table for each appropriation with a separate column to display the President’s budget request, adjustments made by Congress, adjustments due to enacted rescissions, if applicable, and the fiscal year enacted level;

(2) A delineation in the table for each appropriation both by object class and program, project and activity as detailed in the budget appendix for the respective appropriations; and.

(3) An identification of items of special congressional interest.

Sec. 102. None of the funds in this Act, or previous Acts, making funds available for Energy and Water Development, shall be used to award any continuing contract
that commits additional funding from the Inland Waterways Trust Fund unless or until such time that a long-term mechanism to enhance revenues in this Fund sufficient to meet the cost-sharing authorized in the Water Resources Development Act of 1986 (Public Law 99–662) is enacted.

Sec. 103. Within 120 days of the date of the Chief of Engineers Report on a water resource matter, the Assistant Secretary of the Army (Civil Works) shall submit the report to the appropriate authorizing and appropriating committees of the Congress.

Sec. 104. During the fiscal year period covered by this Act, the Secretary of the Army is authorized to implement measures recommended in the efficacy study authorized under section 3061 of the Water Resources Development Act of 2007 (121 Stat. 1121) or in interim reports, with such modifications or emergency measures as the Secretary of the Army determines to be appropriate, to prevent aquatic nuisance species from dispersing into the Great Lakes by way of any hydrologic connection between the Great Lakes and the Mississippi River Basin.

Sec. 105. The Secretary of the Army may transfer to the Fish and Wildlife Service, and the Fish and Wildlife Service may accept and expend, up to $4,300,000 of funds provided in this title under the heading "Operation and
Maintenance” to mitigate for fisheries lost due to Corps
of Engineers projects.

SEC. 106. Section 3(a)(6) of Public Law 100–676 is
amended by striking both occurrences of “$775,000,000”
and inserting in lieu thereof, “$2,918,000,000”.

SEC. 107. That portion of the project for navigation,
Ipswich River, Massachusetts adopted by the Rivers and
Harbor Act of August 5, 1886 consisting of a 4-foot chan-
el located at the entrance to the harbor at Ipswich Har-
bor, lying northwesterly of a line commencing at:

N3074938.09, E837154.87, thence running easterly
about 60 feet to a point with coordinates N3074972.62,
E837203.93, is no longer authorized as a Federal project
after the date of enactment of this Act.

SEC. 108. That portion of the project of navigation,
Chicago Harbor, Illinois, authorized by the River and Har-
bror Acts of March 3, 1899 and March 2, 1919, and that
begins at the southwest corner of the Metropolitan San-
tary District of Greater Chicago sluice gate that abuts the
north wall of the Chicago River Lock and that continues
north for approximately 290 feet, thence east approxi-
mately 1,000 feet, then south approximately 290 feet,
thence west approximately 1,000 feet to the point of begin-
ing shall no longer be authorized as a Federal project
after the date of enactment of this Act.
Sec. 109. That portion of the project for navigation, Warwick Cove, Rhode Island, carried out pursuant to the authority provided by section 107 of the River and Harbor Act of 1960 (Public Law 86–645; 33 U.S.C. 577) that is located within the 5-acre anchorage area east of the channel and lying east of the line beginning at a point with coordinates N357,664.900, E220,349.798 thence running northwesterly about 170.38 feet to a point with coordinates N357,637.740, E220,517.990 thence running northwesterly about 165.98 feet to a point with coordinates N357,587.160, E220,676.080 thence running northeasterly 138.96 feet to a point with coordinates N357,589.020, E220,815.030 thence running northeasterly 101.57 feet to a point with coordinates N357,604.220, E220,915.460 thence running 168.20 feet to a point with coordinates N357,657.054, E221,075.143 thence running northeasterly 106.40 feet to a point with coordinates N357,717.627, E221,162.616 shall no longer be authorized after the date of enactment of this Act.

Sec. 110. The project for flood control, Little Calumet River, Indiana, authorized by section 401(a) of the Water Resources Development Act of 1986 (Public Law 99–662; 100 Stat. 4115), is modified to authorize the Secretary to carry out the project at a total cost of $269,988,000 with an estimated Federal cost of
Sec. 111. (a) The Secretary is authorized to carry over credits in excess of the Non-Federal Sponsor’s share of total project cost between the C–111 South Dade project, authorized by section 203 of the Flood Control Act of 1948 (62 Stat. 1176) and modified by section 203 of the Flood Control Act of 1968 (82 Stat. 740–741) and section 316 of the Water Resources Development Act of 1996 (110 Stat. 3715), and the Kissimmee River project, authorized in section 101(8) of the Water Resources Development Act of 1992 (106 Stat. 4802). Nothing in this subsection affects the authorized cost sharing of these projects.

(b) Section 101(8) of the Water Resources Development Act of 1992 (106 Stat. 4802) is amended to combine the two current authorized total project costs for the ecosystem restoration and headwaters revitalization projects into a single authorized total project cost—

(1) By striking “at a total cost of $426,885,000, with an estimated Federal cost of $139,943,000 and an estimated non-Federal cost of $286,942,000. The Secretary is further authorized to construct” and inserting “and”; and
(2) By striking “, at a total cost of $92,210,000, with an estimated Federal cost of $46,105,000 and an estimated non-Federal cost of $46,105,000.” and inserting “. The total cost of the ecosystem restoration and headwaters revitalization projects is $519,095,000, with an estimated Federal cost of $186,048,000 and an estimated non-Federal cost of $333,047,000.”.

(e) The amendment made by subsection (b) is effective October 31, 1992.

SEC. 112. (a) Expedited Study and Report.—The Secretary shall—

(1) expedite completion of the report for the study authorized by section 3061(d) of the Water Resources Development Act of 2007 (Public Law 110–114; 121 Stat. 1121).

(b) Focus.—In expediting the completion of the study and report under subsection (a), the Secretary shall focus on—

(1) the prevention of the spread of aquatic nuisance species between the Great Lakes and Mississippi River Basins, such as through the permanent hydrological separation of the Great Lakes and Mississippi River Basins; and
(2) the watersheds of the following rivers and
tributaries associated with the Chicago Area Water-
way System:

(A) The Illinois River, at and in the vicin-
ity of Chicago, Illinois.

(B) The Chicago River, Calumet River,
North Shore Channel, Chicago Sanitary and
Ship Canal, and Cal-Sag Channel in the State
of Illinois.

(C) The Grand Calumet River and Little
Calumet River in the States of Illinois and Indi-
ana.

(c) DEADLINE.—The Secretary shall complete the re-
port under subsection (a) by not later than July 1, 2014.

TITLE II
DEPARTMENT OF THE INTERIOR
CENTRAL UTAH PROJECT
CENTRAL UTAH PROJECT COMPLETION ACCOUNT
For carrying out activities authorized by the Central
Utah Project Completion Act, $21,000,000, to remain
available until expended, of which $1,200,000 shall be de-
posited into the Utah Reclamation Mitigation and Con-
servation Account for use by the Utah Reclamation Miti-
gation and Conservation Commission. In addition, for nec-
essary expenses incurred in carrying out related respon-
sibilities of the Secretary of the Interior, $1,300,000 to
remain available until September 30, 2014.

For fiscal year 2013, the Commission may use an
amount not to exceed $1,500,000 for administrative ex-
penses.

BUREAU OF RECLAMATION

The following appropriations shall be expended to
execute authorized functions of the Bureau of Reclama-
tion:

WATER AND RELATED RESOURCES

(INCLUDING TRANSFERS OF FUNDS)

For management, development, and restoration of
water and related natural resources and for related activi-
ties, including the operation, maintenance, and rehabilita-
tion of reclamation and other facilities, participation in
fulfilling related Federal responsibilities to Native Ameri-
cans, and related grants to, and cooperative and other
agreements with, State and local governments, federally
recognized Indian tribes, and others, $892,135,000, to re-
main available until expended, of which $29,000 shall be
available for transfer to the Upper Colorado River Basin
Fund and $6,985,000 shall be available for transfer to the
Lower Colorado River Basin Development Fund; of which
such amounts as may be necessary may be advanced to
the Colorado River Dam Fund: Provided, That such trans-
fers may be increased or decreased within the overall appropriation under this heading: Provided further, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 6806 shall be derived from that Fund or account: Provided further, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: Provided further, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: Provided further, That of the amounts provided herein, funds may be used for high-priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, $39,883,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), and 3405(f) of Public Law 102–575, to remain available until expended: Provided, That the Bureau of Reclamation is directed to assess and
collect the full amount of the additional mitigation and
restoration payments authorized by section 3407(d) of
Public Law 102–575: Provided further, That none of the
funds made available under this heading may be used for
the acquisition or leasing of water for in-stream purposes
if the water is already committed to in-stream purposes
by a court adopted decree or order.

CALIFORNIA BAY-DELTA RESTORATION

(INCLUDING TRANSFERS OF FUNDS)

For carrying out activities authorized by the Water
Supply, Reliability, and Environmental Improvement Act
(Public Law 108–361), consistent with plans to be ap-
proved by the Secretary of the Interior, $36,000,000, to
remain available until expended, of which such amounts
as may be necessary to carry out such activities may be
transferred to appropriate accounts of other participating
Federal agencies to carry out authorized purposes: Pro-
vided, That funds appropriated herein may be used for
the Federal share of the costs of CALFED Program man-
agement: Provided further, That the use of any funds pro-
vided to the California Bay-Delta Authority for program-
wide management and oversight activities shall be subject
to the approval of the Secretary of the Interior: Provided
further, That CALFED implementation shall be carried
out in a balanced manner with clear performance meas-
ures demonstrating concurrent progress in achieving the goals and objectives of the program.

POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the Office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until September 30, 2014, $60,000,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: Provided, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed five passenger motor vehicles, which are for replacement only.

GENERAL PROVISIONS—DEPARTMENT OF THE INTERIOR

Sec. 201. (a) None of the funds provided in title II of this Act for Water and Related Resources, or provided by previous appropriations Acts to the agencies or entities funded in title II of this Act for Water and Related Resources that remain available for obligation or expenditure in fiscal year 2013, shall be available for obligation or expenditure through a reprogramming of funds that—
(1) initiates or creates a new program, project, or activity;

(2) eliminates a program, project, or activity;

(3) increases funds for any program, project, or activity for which funds have been denied or restricted by this Act, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate;

(4) restarts or resumes any program, project or activity for which funds are not provided in this Act, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate;

(5) transfers funds in excess of the following limits, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate:

   (A) 15 percent for any program, project or activity for which $2,000,000 or more is available at the beginning of the fiscal year; or

   (B) $300,000 for any program, project or activity for which less than $2,000,000 is available at the beginning of the fiscal year;

(6) transfers more than $500,000 from either the Facilities Operation, Maintenance, and Rehabili-
ation category or the Resources Management and Development category to any program, project, or activity in the other category, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate; or

(7) transfers, where necessary to discharge legal obligations of the Bureau of Reclamation, more than $5,000,000 to provide adequate funds for settled contractor claims, increased contractor earnings due to accelerated rates of operations, and real estate deficiency judgments, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate.

(b) Subsection (a)(5) shall not apply to any transfer of funds within the Facilities Operation, Maintenance, and Rehabilitation category.

(c) For purposes of this section, the term “transfer” means any movement of funds into or out of a program, project, or activity.

(d) The Bureau of Reclamation shall submit reports on a quarterly basis to the Committees on Appropriations of the House of Representatives and the Senate detailing all the funds reprogrammed between programs, projects, activities, or categories of funding. The first quarterly re-
port shall be submitted not later than 60 days after the
date of enactment of this Act.

Sec. 202. (a) None of the funds appropriated or oth-
erwise made available by this Act may be used to deter-
mine the final point of discharge for the interceptor drain
for the San Luis Unit until development by the Secretary
of the Interior and the State of California of a plan, which
shall conform to the water quality standards of the State
of California as approved by the Administrator of the En-
vironmental Protection Agency, to minimize any detri-
mental effect of the San Luis drainage waters.

(b) The costs of the Kesterson Reservoir Cleanup
Program and the costs of the San Joaquin Valley Drain-
age Program shall be classified by the Secretary of the
Interior as reimbursable or nonreimbursable and collected
until fully repaid pursuant to the "Cleanup Program-Al-
ternative Repayment Plan" and the "SJVDP-Alternative
Repayment Plan" described in the report entitled "Repay-
ment Report, Kesterson Reservoir Cleanup Program and
San Joaquin Valley Drainage Program, February 1995",
prepared by the Department of the Interior, Bureau of
Reclamation. Any future obligations of funds by the
United States relating to, or providing for, drainage serv-
ice or drainage studies for the San Luis Unit shall be fully
reimbursable by San Luis Unit beneficiaries of such service or studies pursuant to Federal reclamation law.

Sec. 203. The Secretary of the Interior may hereafter participate in non-Federal groundwater banking programs to increase the operational flexibility, reliability, and efficient use of water in the State of California, and this participation may include making payment for the storage of Central Valley Project water supplies, the purchase of stored water, the purchase of shares or an interest in ground banking facilities, or the use of Central Valley Project water as a medium of payment for groundwater banking services: Provided, That the Secretary of the Interior shall participate in groundwater banking programs only to the extent allowed under State law and consistent with water rights applicable to the Central Valley Project: Provided further, That any water user to which banked water is delivered shall pay for such water in the same manner provided by that water user’s then-current Central Valley Project water service, repayment, or water rights settlement contract at the rate provided by the then-current Central-Valley Project Irrigation or Municipal and Industrial Rate Setting Policies; and: Provided further, That in implementing this section, the Secretary of the Interior shall comply with applicable environmental laws, including the National Environmental Policy Act of
1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) Nothing herein shall alter or limit the Secretary’s existing authority to use groundwater banking to meet existing fish and wildlife obligations.

SEC. 204. Subject to compliance with all applicable Federal and State laws, a transfer of irrigation water among Central Valley Project contractors from the Friant, San Felipe, West San Joaquin, and Delta divisions, and a transfer from a long-term Friant Division water service or repayment contractor to a temporary or prior temporary service contractors within the place of use in existence on the date of the transfer, as identified in the Bureau of Reclamation water rights permits for the Friant Division, shall hereafter be considered to meet the conditions described in subparagraphs (A) and (I) of section 3405(a)(1) of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4709).

SEC. 205. (a) Termination of Authority.—Section 104(c) of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2214(c)) is amended by striking “2012” and inserting “2017”.

S 2465 PCS
(b) Authorization of Appropriations.—Section 301 of the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2241) is amended—

(1) by striking “90,000,000” and inserting “$110,000,000”; and

(2) by striking “2012” and inserting “2017”.

Sec. 206. The Bureau of Reclamation shall hereafter provide planning assistance in preparation for dry, critically dry, and below normal water year types to Central Valley Project contractors, including those who possess contracts for refuge water supplies, upon their request.

Sec. 207. The Secretary, acting through the Commissioner of the Bureau of Reclamation, may hereafter partner, provide a grant to, or enter into an agreement with local joint powers authorities formed pursuant to State law by irrigation districts and other local water districts and local governments, to advance planning and feasibility studies authorized by Congress for water storage projects: Provided, That the Secretary, acting through the Commissioner of the Bureau of Reclamation, shall ensure that applicable environmental reviews under the National Environmental Policy Act are completed on an expeditious basis and that the shortest existing applicable process under the National Environmental Policy Act shall be utilized, including in the completion of feasibility studies,
Draft Environmental Impact Statements (DEIS) and Final Environmental Impact Statements (FEIS): Provided further, That the Bureau of Reclamation need not complete the DEIS or FEIS if the Commissioner determines, and the Secretary concurs, that the project fails to meet applicable Federal cost-benefit requirements or standards.

SEC. 208. Section 10009(c)(2) of the San Joaquin River Restoration Settlement Act (Public Law 111–11; 123 Stat. 1356) is amended by striking “October 1, 2019, all funds in the Fund shall be available for expenditure without further appropriation.” and inserting “October 1, 2014, all funds in the Fund shall be available for expenditure on an annual basis in an amount not to exceed $40,000,000 without further appropriation.” in lieu there-of.

SEC. 209. Within 180 days of enactment of this Act, the Secretary of the Interior shall issue a plan to facilitate additional water supply deliveries to Central Valley Project contractors in dry, critically dry, or below normal water years as determined by the Sacramento Valley 40–30–30 index: Provided, That the Secretary shall hereafter update the plan each subsequent year that is a critically dry, dry, or below normal water year: Provided further, That the plan shall consider utilizing operational flexibility, inter-
agency cooperation, joint point of diversion, water transfers and exchanges, groundwater banking, recovered and rescheduled water deliveries, water conservation programs established with willing participants, source shifting, infrastructure improvements and any other strategies deemed appropriate by the Secretary: Provided further, That this plan shall be developed in consultation with the Secretary of Commerce, the State of California, public water agencies, water users, and other appropriate agencies and stakeholders and shall take into consideration fluctuating hydrological conditions, physical constraints in the delivery system and existing legal requirements: Provided further, That actions taken under this section shall not supersede or modify any applicable Federal or State law.

Sec. 210. Section 110(a)(3)(A)(ii) of division B of the Miscellaneous Appropriations Act 2001 is amended by striking “10” and inserting “15” in lieu thereof. Nothing in this provision shall alter the authorized cost or the authorized cost sharing of the referenced project.
TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY EFFICIENCY AND RENEWABLE ENERGY

(INCLUDING RESCISSION OF FUNDS)

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for energy efficiency and renewable energy activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $1,985,735,000 to remain available until expended: Provided, That $164,700,000 shall be available until September 30, 2014 for program direction: Provided further, That of the unobligated balances available under this heading, $69,667,000 are hereby rescinded: Provided further, That no amounts may be rescinded from amounts that were designated by the Congress as an emergency requirement pursuant to the Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That of the amount provided under this heading, the Secretary may transfer up to $100,000,000 to the Defense Production Act Fund.
for activities of the Department of Energy pursuant to
2061, et seq.).

ELECTRICITY DELIVERY AND ENERGY RELIABILITY

For Department of Energy expenses including the
purchase, construction, and acquisition of plant and cap-
ital equipment, and other expenses necessary for elec-
tricity delivery and energy reliability activities in carrying
out the purposes of the Department of Energy Organiza-
tion Act (42 U.S.C. 7101 et seq.), including the acquisi-
tion or condemnation of any real property or any facility
or for plant or facility acquisition, construction, or expan-
sion, $143,015,000, to remain available until expended:
Provided, That $27,615,000 shall be available until Sep-
tember 30, 2014 for program direction.

NUCLEAR ENERGY

For Department of Energy expenses including the
purchase, construction, and acquisition of plant and cap-
ital equipment, and other expenses necessary for nuclear
energy activities in carrying out the purposes of the De-
partment of Energy Organization Act (42 U.S.C. 7101 et
seq.), including the acquisition or condemnation of any
real property or any facility or for plant or facility acquisi-
tion, construction, or expansion, and the purchase of not
more than 10 buses and 2 ambulances, all for replacement
only, $785,445,000, to remain available until expended,
of which $10,000,000 shall be derived from the Nuclear Waste Fund: Provided, That of the amount made available under this heading, $92,015,000 shall be available until September 30, 2014 for program direction.

**Fossil Energy Research and Development**

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95–91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, and for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), $460,575,000, to remain available until expended: Provided, That $120,000,000 shall be available until September 30, 2014 for program direction: Provided further, That for all programs funded under Fossil Energy appropriations in this Act or any other Act, the Secretary may vest fee title or other property interests acquired under projects in any entity, including the United States.
NAVAL PETROLEUM AND OIL SHALE RESERVES

For expenses necessary to carry out naval petroleum and oil shale reserve activities, $14,909,000, to remain available until expended: Provided, That, notwithstanding any other provision of law, unobligated funds remaining from prior years shall be available for all naval petroleum and oil shale reserve activities.

ELK HILLS SCHOOL LANDS FUND

For necessary expenses in fulfilling the final payment under the Settlement Agreement entered into by the United States and the State of California on October 11, 1996, as authorized by section 3415 of Public Law 104–106, $15,579,815, for payment to the State of California for the State Teachers’ Retirement Fund, of which $15,579,815 will be derived from the Elk Hills School Lands Fund.

STRATEGIC PETROLEUM RESERVE

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), $195,609,000, to remain available until expended.
Northeast Home Heating Oil Reserve

(including rescission of funds)

For necessary expenses for Northeast Home Heating Oil Reserve storage, operation, and management activities pursuant to the Energy Policy and Conservation Act, $10,119,000, to remain available until expended: Provided, That of the unobligated balances from prior year appropriations available under this heading, $6,000,000 are hereby permanently rescinded: Provided further, That no amounts may be rescinded from amounts that were designated by the Congress as an emergency requirement pursuant to the Concurrent Resolution on the Budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Energy Information Administration

For necessary expenses in carrying out the activities of the Energy Information Administration, $116,365,000, to remain available until expended.

Non-Defense Environmental Cleanup

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental cleanup activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or con-
demnation of any real property or any facility or for plant
or facility acquisition, construction, or expansion,
$228,506,000, to remain available until expended.

URANIUM ENRICHMENT DECONTAMINATION AND
DECOMMISSIONING FUND

For necessary expenses in carrying out uranium en-
richment facility decontamination and decommissioning,
remedial actions, and other activities of title II of the
Atomic Energy Act of 1954, and title X, subtitle A, of
the Energy Policy Act of 1992, $442,493,000, to be de-
duced from the Uranium Enrichment Decontamination and
Decommissioning Fund, to remain available until ex-
pended.

SCIENCE

For Department of Energy expenses including the
purchase, construction, and acquisition of plant and cap-
ital equipment, and other expenses necessary for science
activities in carrying out the purposes of the Department
of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
cluding the acquisition or condemnation of any real prop-
erty or facility or for plant or facility acquisition, construc-
tion, or expansion, and purchase of not more than 25 pas-
senger motor vehicles for replacement only, including one
ambulance and one bus, $4,909,000,000, to remain avail-
able until expended: Provided, That $190,000,000 shall be available until September 30, 2014 for program direction.

ADVANCED RESEARCH PROJECTS AGENCY—ENERGY

For necessary expenses in carrying out the activities authorized by section 5012 of the America COMPETES Act (Public Law 110–69), as amended, $312,000,000 to remain available until expended: Provided, That $25,000,000 shall be available until September 30, 2014 for program direction.

TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM

Such sums as are derived from amounts received from borrowers pursuant to section 1702(b)(2) of the Energy Policy Act of 2005 under this heading in prior Acts, shall be collected in accordance with section 502(7) of the Congressional Budget Act of 1974: Provided, That, for necessary administrative expenses to carry out this Loan Guarantee program, $38,000,000 is appropriated, to remain available until expended: Provided further, That $38,000,000 of the fees collected pursuant to section 1702(h) of the Energy Policy Act of 2005 shall be credited as offsetting collections to this account to cover administrative expenses and shall remain available until expended, so as to result in a final fiscal year 2012 appropriation from the general fund estimated at not more than $0: Pro-
vided further, That fees collected under section 1702(h) in excess of the amount appropriated for administrative expenses shall not be available until appropriated.

Advanced Technology Vehicles Manufacturing Loan Program

For administrative expenses in carrying out the Advanced Technology Vehicles Manufacturing Loan Program, $9,000,000, to remain available until September 30, 2014.

Departmental Administration

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $30,000), $220,783,000, to remain available until September 30, 2014, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): Provided, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: Provided further, That moneys received by the Department for miscellaneous revenues estimated to total
$108,188,000 in fiscal year 2013 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of 31 U.S.C. 3302: *Provided further,* That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during 2013, and any related appropriated receipt account balances remaining from prior years’ miscellaneous revenues, so as to result in a final fiscal year 2013 appropriation from the general fund estimated at not more than $112,595,000.

**Office of the Inspector General**


**Atomic Energy Defense Activities**

**National Nuclear Security Administration**

**Weapons Activities**

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization.
Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed one ambulance, $7,577,341,000, to remain available until expended: Provided, That no funding may be made available for the B–61 Life Extension Program until the Administrator of the National Nuclear Security Administration submits to the Committees on Appropriations of the House of Representatives and the Senate a baseline cost, schedule, and scope estimate for the B–61 Life Extension program.

DEFENSE NUCLEAR NONPROLIFERATION

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for defense nuclear nonproliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed one passenger motor vehicle for replacement only, $2,458,631,000, to remain available until expended.
NAVAL REACTORS

For Department of Energy expenses necessary for naval reactors activities to carry out the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition (by purchase, condemnation, construction, or otherwise) of real property, plant, and capital equipment, facilities, and facility expansion, $1,088,635,000, to remain available until expended: Provided, That $43,212,000 shall be available until September 30, 2014 for program direction.

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Office of the Administrator in the National Nuclear Security Administration, including official reception and representation expenses (not to exceed $12,000), $386,279,000, to remain available until September 30, 2014.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental cleanup activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acqui-
sition or condemnation of any real property or any facility
or for plant or facility acquisition, construction, or expan-
and the purchase of not to exceed one ambulance
and one fire truck for replacement only, $5,063,987,000,
to remain available until expended: Provided, That
$323,504,000 shall be available until September 30, 2014
for program direction.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the
purchase, construction, and acquisition of plant and cap-
ital equipment and other expenses, necessary for atomic
energy defense, other defense activities, and classified ac-
tivities, in carrying out the purposes of the Department
of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
cluding the acquisition or condemnation of any real prop-
erty or any facility or for plant or facility acquisition, con-
struction, or expansion, $735,702,000, to remain available
until expended: Provided, That $124,445,000 shall be
available until September 30, 2014 for program direction.

POWER MARKETING ADMINISTRATION

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administra-
tion Fund, established pursuant to Public Law 93–454,
are approved for construction of, or participating in the
construction of, a high voltage line from Bonneville’s high
voltage system to the service areas of requirements customers located within Bonneville’s service area in southern Idaho, southern Montana, and western Wyoming; and such line may extend to, and interconnect in, the Pacific Northwest with lines between the Pacific Northwest and the Pacific Southwest, and for John Day Reprogramming and Construction, the Columbia River Basin White Sturgeon Hatchery, and Kelt Reconditioning and Reproductive Success Evaluation Research, and, in addition, for official reception and representation expenses in an amount not to exceed $5,000: Provided, That during fiscal year 2013, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, including transmission wheeling and ancillary services, pursuant to section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, and including official reception and representation expenses (in an amount not to exceed $1,500), $8,732,000, to remain available until expended: Provided, That notwithstanding 31 U.S.C. 3302 and section 5 of the Flood Control Act of 1944, up to $8,732,000 collected by the Southeastern Power Administration from
the sale of power and related services shall be credited to this account as discretionary offsetting collections, to remain available until expended for the sole purpose of funding the annual expenses of the Southeastern Power Administration: Provided further, That the sum herein appropriated for annual expenses shall be reduced as collections are received during the fiscal year so as to result in a final fiscal year 2013 appropriation estimated at not more than $0: Provided further, That, notwithstanding 31 U.S.C. 3302, up to $87,696,000 collected by the Southeastern Power Administration pursuant to the Flood Control Act of 1944 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures: Provided further, That for purposes of this appropriation, annual expenses means expenditures that are generally recovered in the same year that they are incurred (excluding purchase power and wheeling expenses).

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, for construction and acquisition of transmission lines, substations and appurtenant facilities,
and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 in carrying out section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the Southwestern Power Administration, $44,200,000, to remain available until expended: Provided, That notwithstanding 31 U.S.C. 3302 and section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), up to $32,308,000 collected by the Southwestern Power Administration from the sale of power and related services shall be credited to this account as discretionary offsetting collections, to remain available until expended, for the sole purpose of funding the annual expenses of the Southwestern Power Administration: Provided further, That the sum herein appropriated for annual expenses shall be reduced as collections are received during the fiscal year so as to result in a final fiscal year 2013 appropriation estimated at not more than $11,892,000: Provided further, That, notwithstanding 31 U.S.C. 3302, up to $41,000,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act of 1944 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures: Provided further, That, for purposes of this appro-
appropriation, annual expenses means expenditures that are
generally recovered in the same year that they are in-
curred (excluding purchase power and wheeling expenses).

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

For carrying out the functions authorized by title III,
section 302(a)(1)(E) of the Act of August 4, 1977 (42
U.S.C. 7152), and other related activities including con-
servation and renewable resources programs as author-
ized, including official reception and representation ex-
penses (in an amount not to exceed $1,500); $291,920,000, to remain available until expended, of
which $281,702,000 shall be derived from the Department
of the Interior Reclamation Fund: Provided, That notwith-
standing 31 U.S.C. 3302, section 5 of the Flood Control
Act of 1944 (16 U.S.C. 825s), and section 1 of the Inte-
rior Department Appropriation Act, 1939 (43 U.S.C.
392a), up to $195,790,000 collected by the Western Area
Power Administration from the sale of power and related
services shall be credited to this account as discretionary
offsetting collections, to remain available until expended,
for the sole purpose of funding the annual expenses of the
Western Area Power Administration: Provided further,
That the sum herein appropriated for annual expenses
shall be reduced as collections are received during the fiscal year so as to result in a final fiscal year 2013 appropriation estimated at not more than $96,130,000, of which $85,912,000 is derived from the Reclamation Fund: Provided further, That of the amount herein appropriated, not more than $3,375,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That notwithstanding 31 U.S.C. 3302, up to $242,858,000 collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures: Provided further, That for purposes of this appropriation, annual expenses means expenditures that are generally recovered in the same year that they are incurred (excluding purchase power and wheeling expenses).

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $5,555,000, to remain available until expended,
and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 2 of the Act of June 18, 1954 (68 Stat. 255) as amended: Provided, That notwithstanding the provisions of that Act and of 31 U.S.C. 3302, up to $5,335,000 collected by the Western Area Power Administration from the sale of power and related services from the Falcon and Amistad Dams shall be credited to this account as discretionary offsetting collections, to remain available until expended for the sole purpose of funding the annual expenses of the hydroelectric facilities of these Dams and associated Western Area Power Administration activities: Provided further, That the sum herein appropriated for annual expenses shall be reduced as collections are received during the fiscal year so as to result in a final fiscal year 2013 appropriation estimated at not more than $220,000: Provided further, That for purposes of this appropriation, annual expenses means expenditures that are generally recovered in the same year that they are incurred.

Federal Energy Regulatory Commission

Salaries and Expenses

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et
seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed $3,000), $304,600,000, to remain available until expended: Provided, That notwithstanding any other provision of law, not to exceed $304,600,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2013 shall be retained and used for necessary expenses in this account, and shall remain available until expended: Provided further, That the sum herein appropriated from the general fund shall be reduced as revenues are received during fiscal year 2013 so as to result in a final fiscal year 2013 appropriation from the general fund estimated at not more than $0.

GENERAL PROVISIONS, DEPARTMENT OF ENERGY

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

Sec. 301. The unexpended balances of prior appropriations provided for activities in this Act may be available to the same appropriation accounts for such activities established pursuant to this title. Available balances may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.
Sec. 302. Funds appropriated by this or any other Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2013 until the enactment of the Intelligence Authorization Act for fiscal year 2013.

Sec. 303. None of the funds made available in this title shall be used for the construction of facilities classified as high-hazard nuclear facilities under 10 CFR Part 830 unless independent oversight is conducted by the Office of Health, Safety, and Security to ensure the project is in compliance with nuclear safety requirements.

Sec. 304. None of the funds made available in this title may be used to approve critical decision-2 or critical decision-3 under Department of Energy Order 413.3B, or any successive departmental guidance, for construction projects where the total project cost exceeds $100,000,000, until a separate independent cost estimate has been developed for the project for that critical decision.

Sec. 305. (a) Any determination (including a determination made prior to the date of enactment of this Act) by the Secretary pursuant to section 3112(d)(2)(B) of the USEC Privatization Act (110 Stat. 1321–335), as amend-
ed, that the sale or transfer of uranium will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry shall be valid for not more than 2 calendar years subsequent to such determination.

(b) Not less than 30 days prior to the provision of uranium in any form the Secretary shall notify the House and Senate Committees on Appropriations of the following:

(1) the amount of uranium to be provided;

(2) an estimate by the Secretary of the gross market value of the uranium on the expected date of the provision of the uranium;

(3) the expected date of the provision of the uranium;

(4) the recipient of the uranium; and

(5) the value the Secretary expects to receive in exchange for the uranium, including any reductions to the gross value of the uranium by the recipient.

(c) Not later than June 30, 2013, the Secretary shall submit to the House and Senate Committees on Appropriations a revised excess uranium inventory management plan for fiscal years 2014 through 2019.

Sec. 306. Section 20320 of the Continuing Appropriations Resolution, 2007, Public Law 109–289, division
B, as amended by the Revised Continuing Appropriations Resolution, 2007, Public Law 110–5, is amended by striking in subsection (c) “an annual review” after “conduct” and inserting in lieu thereof “a review every three years”.

SEC. 307. (a) The Secretary may transfer, not earlier than 30 days after certification to the Committees on Appropriations of the House of Representatives and the Senate that such transfer is needed for national security reasons, and after congressional notification and approval of the Committees on Appropriations of the House of Representatives and the Senate, up to $150,000,000 made available to any National Nuclear Security Administration account in this Act to further the development and demonstration of national security-related enrichment technologies.

(b) The Secretary shall provide, directly or indirectly, Federal funds, resources, or other benefit for the research, development, or deployment of domestic enrichment technology under this section—

(1) using merit selection procedures; and

(2) only if the Secretary shall execute an agreement with the recipient (or any affiliate, successor, or assignee) of such funds, resources, or other benefit (hereinafter referred to as the “recipient”), which shall require, at a minimum—
(A) the achievement of specific technical criteria by the recipient by specific dates no later than June 30, 2014;

(B) that the recipient shall—

(i) immediately upon execution of the agreement, grant to the United States for use by or on behalf of the United States, through the Secretary, a royalty-free, non-exclusive license in all enrichment-related intellectual property and associated technical data owned, licensed or otherwise controlled by the recipient as of the date of enactment of this Act, or thereafter developed or acquired to meet the requirements of the agreement;

(ii) amend any existing agreement between the Secretary and the recipient to permit the Secretary to practice or permit third parties on behalf of the Secretary to practice intellectual property and associated technical data related to the award of funds, resources, or other benefit royalty-free for government purposes, including completing or operating enrichment technologies and using them for national de-
fense purposes, such as providing nuclear
material to operate commercial nuclear
power reactors for tritium production; and

(iii) as soon as practicable, deliver to
the Secretary all technical information and
other documentation in its possession or
control necessary to permit the Secretary
to use and practice all intellectual property
related to domestic enrichment tech-
nologies; and

(C) any other condition or restriction the
Secretary determines is necessary to protect the
interests of the United States.

(e) If the Secretary determines that a recipient has
not achieved the technical criteria under the agreement
pursuant to subsection (b), either by the dates specified
in the original agreement or by June 30, 2014, whichever
is earlier, the recipient shall, as soon as practicable, sur-
render custody, possession and control, or return, as ap-
propriate, any real or personal property owned or leased
by the recipient, to the Secretary in connection with the
deployment of enrichment technology, along with all cap-
ital improvements, equipment, fixtures, appurtenances,
and other improvements thereto, and any further obliga-
tion by the Secretary under any such lease shall terminate.
(d)(1) The limitations in this section shall apply to funds made available in this Act, prior Appropriations Acts, and any future Appropriations Acts.

(2) This section shall not apply with regard to the issuance of any loan guarantee pursuant to section 1703 of the Energy Policy Act of 2005 (42 U.S.C. 16513).

SEC. 308. (a) IN GENERAL.—Subject to subsections (b) through (d), the Secretary may appoint, without regard to the provisions of chapter 33 of title 5, United States Code, governing appointments in the competitive service, exceptionally well qualified individuals to scientific, engineering, or other critical technical positions.

(b) LIMITATIONS.—

(1) NUMBER OF POSITIONS.—The number of critical positions authorized by subsection (a) may not exceed 120 at any 1 time in the Department.

(2) TERM.—The term of an appointment under subsection (a) may not exceed 4 years.

(3) PRIOR EMPLOYMENT.—An individual appointed under subsection (a) shall not have been a Department employee during the 2-year period ending on the date of appointment.

(4) PAY.—

(A) IN GENERAL.—The Secretary shall have the authority to fix the basic pay of an in-
individual appointed under subsection (a) at a rate to be determined by the Secretary up to level I of the Executive Schedule without regard to the civil service laws.

(B) TOTAL ANNUAL COMPENSATION.—The total annual compensation for any individual appointed under subsection (a) may not exceed the highest total annual compensation payable at the rate determined under section 104 of title 3, United States Code.

(5) ADVERSE ACTIONS.—An individual appointed under subsection (a) may not be considered to be an employee for purposes of subchapter II of chapter 75 of title 5, United States Code.

(c) REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall ensure that—

(A) the exercise of the authority granted under subsection (a) is consistent with the merit principles of section 2301 of title 5, United States Code; and

(B) the Department notifies diverse professional associations and institutions of higher education, including those serving the interests of women and racial or ethnic minorities that
are underrepresented in scientific, engineering, and mathematical fields, of position openings as appropriate.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary and the Director of the Office of Personnel Management shall submit to Congress a report on the use of the authority provided under this section that includes, at a minimum, a description or analysis of—

(A) the ability to attract exceptionally well qualified scientists, engineers, and technical personnel;

(B) the amount of total compensation paid each employee hired under the authority each calendar year; and

(C) whether additional safeguards or measures are necessary to carry out the authority and, if so, what action, if any, has been taken to implement the safeguards or measures.

(d) TERMINATION OF EFFECTIVENESS.—The authority provided by this section terminates effective on the date that is 4 years after the date of enactment of this Act.

SEC. 309. (a) IN GENERAL.—The Secretary may waive the application of section 8344 or 8468 of title 5,
United States Code, on a case-by-case basis, for the employment of an annuitant in a position if the employment of the individual is necessary to carry out a critical function of the Department for which the Department has encountered exceptional difficulty in recruiting or retaining suitably qualified candidates.

(b) LIMITATION.—An annuitant employed under the authority granted by subsection (a) shall not be considered an employee for purposes of subchapter III of chapter 83 and chapter 84 of title 5, United States Code.

(c) LIMITATION ON TERM.—The term of employment of any individual hired under subsection (a) may not exceed an initial term of 2 years, with an additional 2-year appointment under exceptional circumstances.

(d) TERMINATION OF EFFECTIVENESS.—The authority provided by this section terminates effective on the date that is 4 years after the date of enactment of this Act.

Sec. 310. None of the funds in this Act or any other Act shall be used to deposit funds in excess of $36,100,000 from any Federal royalties, rents, and bonuses derived from Federal onshore and off-shore oil and gas leases issued under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and the Mineral Leasing Act (30 U.S.C. 181 et seq.) into the Ultra-Deepwater and Un-
conventional Natural Gas and Other Petroleum Research Fund.


SEC. 312. (a) DEFINITIONS.—In this section:

(1) AFFECTED INDIAN TRIBE.—The term "affected Indian tribe" has the meaning given the term in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(2) HIGH-LEVEL RADIOACTIVE WASTE.—The term "high-level radioactive waste" has the meaning given the term in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(3) NUCLEAR WASTE FUND.—The term “Nuclear Waste Fund” means the Nuclear Waste Fund established under section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)).

(4) SECRETARY.—The term “Secretary” means the Secretary of Energy.
(5) **SPENT NUCLEAR FUEL.**—The term “spent nuclear fuel” has the meaning given the term in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(b) **PILOT PROGRAM.**—Notwithstanding any provision of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.), the Secretary is authorized, in the current fiscal year and subsequent fiscal years, to conduct a pilot program, through 1 or more private sector partners, to license, construct, and operate 1 or more government or privately owned consolidated storage facilities to provide interim storage as needed for spent nuclear fuel and high-level radioactive waste, with priority for storage given to spent nuclear fuel located on sites without an operating nuclear reactor.

(c) **REQUESTS FOR PROPOSALS.**—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue a request for proposals for cooperative agreements—

1. to obtain any license necessary from the Nuclear Regulatory Commission for the construction of 1 or more consolidated storage facilities;
2. to demonstrate the safe transportation of spent nuclear fuel and high-level radioactive waste, as applicable; and

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*S 2465 PCS*
(3) to demonstrate the safe storage of spent nuclear fuel and high-level radioactive waste, as applicable, at the 1 or more consolidated storage facilities pending the construction and operation of deep geologic disposal capacity for the permanent disposal of the spent nuclear fuel.

(d) CONSENT-BASED APPROVAL.—Prior to siting a consolidated storage facility pursuant to this section—

(1) the Secretary shall enter into an agreement to host the facility with—

(A) the Governor of the State;

(B) each unit of local government within the jurisdiction of which the facility is proposed to be located; and

(C) each affected Indian tribe; and

(2) Congress shall approve the terms of the agreement and authorize the appropriation of funds from the Nuclear Waste Fund to implement the terms of the agreement.

(e) APPLICABILITY.—In executing this section, the Secretary shall comply with—

(1) all licensing requirements and regulations of the Nuclear Regulatory Commission; and

(2) all other applicable laws (including regulations).
(f) PILOT PROGRAM PLAN.—Not later than 120 days after the date on which the Secretary issues the request for proposals under subsection (c), the Secretary shall submit to Congress a plan to carry out this section that includes—

1. an estimate of the cost of licensing, constructing, and operating a consolidated storage facility, including the transportation costs, on an annual basis, over the expected lifetime of the facility;

2. a schedule for—
   
   (A) obtaining any license necessary to construct and operate a consolidated storage facility from the Nuclear Regulatory Commission;
   
   (B) constructing the facility;
   
   (C) transporting spent fuel to the facility; and
   
   (D) removing the spent fuel and decommissioning the facility; and

3. an estimate of the cost of any financial assistance, compensation, or incentives proposed to be paid to the host State, Indian tribe, or local government;

4. an estimate of any future reductions in the damages expected to be paid by the United States for the delay of the Department of Energy in accept-
ing spent fuel expected to result from the pilot pro-
gram;

(5) recommendations for any additional legisla-
tion needed to authorize and implement the pilot
program; and

(6) recommendations for a mechanism to en-
sure that any spent nuclear fuel or high-level radio-
active waste stored at a consolidated storage facility
pursuant to this section shall move to deep geologic
disposal capacity, following a consent-based approval
process for that deep geologic disposal capacity con-
sistent with subsection (d), within a reasonable time
after the issuance of a license to construct and oper-
ate the consolidated storage facility.

(g) PUBLIC PARTICIPATION.—Prior to choosing a
site for the construction of a consolidated storage facility
under this section, the Secretary shall conduct 1 or more
public hearings in the vicinity of each potential site and
in at least 1 other location within the State in which the
site is located to solicit public comments and recommenda-
tions.

(h) USE OF NUCLEAR WASTE FUND.—The Secretary
may make expenditures from the Nuclear Waste Fund to
carry out this section, subject to appropriations.
Sec. 313. Section 1605 of Public Law 102–486 (42 U.S.C. 13385) is hereby repealed.

Sec. 314. Section 804 of Public Law 110–140 (42 U.S.C. 17283) is hereby repealed.

Sec. 315. Section 205 of Public Law 95–91 (42 U.S.C. 7135), as amended, is hereby further amended:

(a) in paragraph (i)(1) by striking “once every two years” and inserting “once every four years”;

(b) in paragraph (k)(1) by striking “once every three years” and inserting “once every four years”.

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 40 U.S.C. 14704, 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, $64,850,000, to remain available until expended.
DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

DELTA REGIONAL AUTHORITY

SALARIES AND EXPENSES

For necessary expenses of the Delta Regional Authority and to carry out its activities, as authorized by the Delta Regional Authority Act of 2000, as amended, notwithstanding sections 382C(b)(2), 382F(d), 382M, and 382N of said Act, $11,315,000, to remain available until expended.

DENALI COMMISSION

For expenses of the Denali Commission including the purchase, construction, and acquisition of plant and capital equipment as necessary and other expenses, $10,165,000, to remain available until expended, notwithstanding the limitations contained in section 306(g) of the Denali Commission Act of 1998: Provided, That funds shall be available for construction projects in an amount not to exceed 80 percent of total project cost for distressed communities, as defined by section 307 of the Denali Commission Act of 1998 (division C, title III, Public Law 105–277), as amended by section 701 of appendix D, title VII, Public Law 106–113 (113 Stat. 1501A–280), and an amount not to exceed 50 percent for non-distressed communities.
NORTHERN BORDER REGIONAL COMMISSION

For necessary expenses of the Northern Border Regional Commission in carrying out activities authorized by subtitle V of title 40, United States Code, $1,425,000, to remain available until expended: Provided, That such amounts shall be available for administrative expenses, notwithstanding section 15751(b) of title 40, United States Code.

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, as amended, including official representation expenses (not to exceed $25,000), $1,042,200,000, to remain available until expended: Provided, That revenues from licensing fees, inspection services, and other services and collections estimated at $914,832,000 in fiscal year 2013 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2013 so as to result in a final fiscal year 2013 appropriation estimated at not more than $127,368,000.
OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $11,870,000, to remain available until expended: Provided, That revenues from licensing fees, inspection services, and other services and collections estimated at $9,918,000 in fiscal year 2013 shall be retained and be available until expended, for necessary salaries and expenses in this account, notwithstanding section 3302 of title 31, United States Code: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2013 so as to result in a final fiscal year 2013 appropriation estimated at not more than $1,952,000: Provided further, That for fiscal year 2013 and hereafter an individual appointed to the position of Inspector General of the Nuclear Regulatory Commission (NRC) shall, by virtue of such appointment, also hold the position of Inspector General of the Defense Nuclear Facilities Safety Board: Provided further, That the Inspector General at the Defense Nuclear Facilities Safety Board shall have the duties, responsibilities, and authorities specified in the Inspector General Act of 1978, as amended: Provided further, That the Inspector General of the Defense Nuclear Facilities Safety Board shall utilize personnel of the Office
of Inspector General of NRC in performing the duties of
the Inspector General of the Defense Nuclear Facilities
Safety Board, and shall not appoint any individuals to po-
sitions within the Defense Nuclear Facilities Safety
Board: Provided further, That $850,000 of the sum herein
appropriated is for the necessary expenses of the Nuclear
Regulatory Commission Office of Inspector General in
providing inspector general services at the Defense Nu-
clear Facilities Safety Board.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Tech-
nical Review Board, as authorized by Public Law 100–
203, section 5051, $3,400,000 to be derived from the Nu-
clear Waste Fund, and to remain available until expended.

OFFICE OF THE FEDERAL COORDINATOR FOR ALASKA

NATURAL GAS TRANSPORTATION PROJECTS

For necessary expenses for the Office of the Federal
Coordinator for Alaska Natural Gas Transportation
Projects pursuant to the Alaska Natural Gas Pipeline Act
of 2004, $1,000,000 to remain available until September
30, 2014.
GENERAL PROVISIONS—INDEPENDENT AGENCIES

SEC. 401. The Denali Commission Act of 1998 (42 U.S.C. 3121 note) is amended—

(1) in section 305, by striking subsection (c) and inserting the following:

“(c) GIFTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Commission, on behalf of the United States, may accept, use, and dispose of gifts or donations of services, property, or money for purposes of carrying out this Act.

“(2) CONDITIONAL.—With respect to conditional gifts—

“(A)(i) the Commission, on behalf of the United States, may accept conditional gifts for purposes of carrying out this Act, if approved by the Federal Cochairperson; and

“(ii) the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with the condition applicable to the gift; but

“(B) no gift shall be accepted that is conditioned on any expenditure not to be funded from the gift or from the income generated by
the gift unless the expenditure has been ap-
proved by an Act of Congress; and

“(C) the Commission shall submit an an-
nual report to the House and Senate Commit-
tees on Appropriations that describes the
amount and terms of conditional gifts, the man-
ner in which such conditional gifts were or shall
be used, and any results achieved by such use.”;

and

(2) by adding at the end the following:

“SEC. 311. TRANSFER OF FUNDS FROM OTHER FEDERAL
AGENCIES.

“(a) The Commission may accept transfers of funds
from other Federal agencies for purposes of this Act.

“(b) Any Federal agency authorized to carry out an
activity that is within the authority of the Commission
may transfer to the Commission any appropriated funds
available for such activity. Funds transferred to the Com-
mission under this section shall be merged with and be
available for the same time period as the commission’s ap-
propriation.

“(c) The Commission shall submit a report to the
House and Senate Committees on Appropriations detail-
ing and summarizing all transfers to and expenditures
from the Denali Commission under this section.”.
TITLE V

GENERAL PROVISIONS

Sec. 501. None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913.

Sec. 502. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in this Act or any other appropriation Act.

This Act may be cited as the “Energy and Water Development and Related Agencies Appropriations Act, 2013”. 
[Report No. 112–164]

S. 2465

A BILL

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2013, and for other purposes.

APRIL 26, 2012

Read twice and placed on the calendar