

Calendar No. 420114TH CONGRESS
2^D SESSION**S. 2804****[Report No. 114–236]**

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2017, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 14, 2016

Mr. ALEXANDER, 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, 2017, 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 en-
5 ergy and water development and related agencies for the
6 fiscal year ending September 30, 2017, and for other pur-
7 poses, namely:

1 TITLE I
2 CORPS OF ENGINEERS—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 river
9 and harbor, flood and storm damage reduction, shore pro-
10 tection, aquatic ecosystem restoration, and related efforts.

11 INVESTIGATIONS

12 For expenses necessary where authorized by law for
13 the collection and study of basic information pertaining
14 to river and harbor, flood and storm damage reduction,
15 shore protection, aquatic ecosystem restoration, and re-
16 lated needs; for surveys and detailed studies, design work,
17 and plans and specifications of proposed river and harbor,
18 flood and storm damage reduction, shore protection, and
19 aquatic ecosystem restoration projects, and related efforts
20 prior to construction; for restudy of authorized projects,
21 and related efforts; and for miscellaneous investigations,
22 and, when authorized by law, surveys and detailed studies,
23 and plans and specifications of projects prior to construc-
24 tion, \$126,522,000, to remain available until expended.

1 CONSTRUCTION

2 For expenses necessary for the construction of river
3 and harbor, flood and storm damage reduction, shore pro-
4 tection, and aquatic ecosystem restoration projects, and
5 related projects authorized by law; for conducting detailed
6 studies, design work, and plans and specifications, of such
7 projects (including those involving participation by States,
8 local governments, or private groups) authorized or made
9 eligible for selection by law (but such detailed studies, and
10 plans and specifications, shall not constitute a commit-
11 ment of the Government to construction); \$1,813,649,000,
12 to remain available until expended; of which such sums
13 as are necessary to cover the Federal share of construction
14 costs for facilities under the Dredged Material Disposal
15 Facilities program shall be derived from the Harbor Main-
16 tenance Trust Fund as authorized by Public Law 104-
17 303; and of which such sums as are necessary to cover
18 one-half of the costs of construction, replacement, rehabili-
19 tation, and expansion of inland waterways projects shall
20 be derived from the Inland Waterways Trust Fund, except
21 as otherwise specifically provided for in law.

22 MISSISSIPPI RIVER AND TRIBUTARIES

23 For expenses necessary for flood damage reduction
24 projects and related efforts in the Mississippi River allu-
25 vial valley below Cape Girardeau, Missouri, as authorized

1 by law, \$368,000,000, to remain available until expended,
2 of which such sums as are necessary to cover the Federal
3 share of eligible operation and maintenance costs for in-
4 land harbors shall be derived from the Harbor Mainte-
5 nance Trust Fund.

6 OPERATION AND MAINTENANCE

7 For expenses necessary for the operation, mainte-
8 nance, and care of existing river and harbor, flood and
9 storm damage reduction, and aquatic ecosystem restora-
10 tion projects, and related projects authorized by law; pro-
11 viding security for infrastructure owned or operated by the
12 Corps, including administrative buildings and laboratories;
13 maintaining harbor channels provided by a State, munici-
14 pality, or other public agency that serve essential naviga-
15 tion needs of general commerce, where authorized by law;
16 surveying and charting northern and northwestern lakes
17 and connecting waters; clearing and straightening chan-
18 nels; and removing obstructions to navigation,
19 \$3,173,829,000, to remain available until expended, of
20 which such sums as are necessary to cover the Federal
21 share of eligible operation and maintenance costs for
22 coastal harbors and channels, and for inland harbors shall
23 be derived from the Harbor Maintenance Trust Fund; of
24 which such sums as become available from the special ac-
25 count for the Army Corps of Engineers established by the

1 Land and Water Conservation Fund Act of 1965 shall be
2 derived from that account for resource protection, re-
3 search, interpretation, and maintenance activities related
4 to resource protection in the areas managed by the Army
5 Corps of Engineers at which outdoor recreation is avail-
6 able; and of which such sums as become available from
7 fees collected under section 217 of Public Law 104–303
8 shall be used to cover the cost of operation and mainte-
9 nance of the dredged material disposal facilities for which
10 such fees have been collected: *Provided*, That 1 percent
11 of the total amount of funds provided for each of the pro-
12 grams, projects, or activities funded under this heading
13 shall not be allocated to a field operating activity prior
14 to the beginning of the fourth quarter of the fiscal year
15 and shall be available for use by the Chief of Engineers
16 to fund such emergency activities as the Chief of Engi-
17 neers determines to be necessary and appropriate, and
18 that the Chief of Engineers shall allocate during the
19 fourth quarter any remaining funds which have not been
20 used for emergency activities proportionally in accordance
21 with the amounts provided for the programs, projects, or
22 activities.

23 REGULATORY PROGRAM

24 For expenses necessary for administration of laws
25 pertaining to regulation of navigable waters and wetlands,

1 \$200,000,000, to remain available until September 30,
2 2018.

3 FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

4 For expenses necessary to clean up contamination
5 from sites in the United States resulting from work per-
6 formed as part of the Nation's early atomic energy pro-
7 gram, \$103,000,000, to remain available until expended.

8 FLOOD CONTROL AND COASTAL EMERGENCIES

9 For expenses necessary to prepare for flood, hurri-
10 cane, and other natural disasters and support emergency
11 operations, repairs, and other activities in response to
12 such disasters as authorized by law, \$30,000,000, to re-
13 main available until expended.

14 EXPENSES

15 For expenses necessary for the supervision and gen-
16 eral administration of the civil works program in the Army
17 Corps of Engineers headquarters and the division offices;
18 and for costs allocable to the civil works program of man-
19 agement and operation of the Humphreys Engineer Cen-
20 ter Support Activity, the Institute for Water Resources,
21 the United States Army Engineer Research and Develop-
22 ment Center, and the United States Army Corps of Engi-
23 neers Finance Center, \$180,000,000, to remain available
24 until September 30, 2018, of which not more than \$5,000
25 may be used for official reception and representation pur-

1 poses and only during the current fiscal year: *Provided*,
2 That no part of any other appropriation provided in this
3 title shall be available to fund such activities in the Army
4 Corps of Engineers headquarters and division offices: *Pro-*
5 *vided further*, That any Flood Control and Coastal Emer-
6 gencies appropriation may be used to fund the supervision
7 and general administration of emergency operations, re-
8 pairs, and other activities in response to any flood, hurri-
9 cane, or other natural disaster.

10 OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY

11 FOR CIVIL WORKS

12 For the Office of the Assistant Secretary of the Army
13 for Civil Works as authorized by 10 U.S.C. 3016(b)(3),
14 \$5,000,000, to remain available until September 30, 2018.

15 GENERAL PROVISIONS—CORPS OF

16 ENGINEERS—CIVIL

17 (INCLUDING TRANSFER OF FUNDS)

18 SEC. 101. (a) None of the funds provided in title I
19 of this Act, or provided by previous appropriations Acts
20 to the agencies or entities funded in title I of this Act
21 that remain available for obligation or expenditure in fiscal
22 year 2017, shall be available for obligation or expenditure
23 through a reprogramming of funds that:

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

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

2 (3) increases funds or personnel for any pro-
3 gram, project, or activity for which funds have been
4 denied or restricted by this Act, unless prior ap-
5 proval is received from the House and Senate Com-
6 mittees on Appropriations;

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

11 (5) augments or reduces existing programs,
12 projects, or activities in excess of the amounts con-
13 tained in paragraphs (6) through (10), unless prior
14 approval is received from the House and Senate
15 Committees on Appropriations;

16 (6) INVESTIGATIONS.—For a base level over
17 \$100,000, reprogramming of 25 percent of the base
18 amount up to a limit of \$150,000 per project, study
19 or activity is allowed: *Provided*, That for a base level
20 less than \$100,000, the reprogramming limit is
21 \$25,000: *Provided further*, That up to \$25,000 may
22 be reprogrammed into any continuing study or activ-
23 ity that did not receive an appropriation for existing
24 obligations and concomitant administrative expenses;

1 (7) CONSTRUCTION.—For a base level over
2 \$2,000,000, reprogramming of 15 percent of the
3 base amount up to a limit of \$3,000,000 per project,
4 study or activity is allowed: *Provided*, That for a
5 base level less than \$2,000,000, the reprogramming
6 limit is \$300,000: *Provided further*, That up to
7 \$3,000,000 may be reprogrammed for settled con-
8 tractor claims, changed conditions, or real estate de-
9 ficiency judgments: *Provided further*, That up to
10 \$300,000 may be reprogrammed into any continuing
11 study or activity that did not receive an appropria-
12 tion for existing obligations and concomitant admin-
13 istrative expenses;

14 (8) OPERATION AND MAINTENANCE.—Unlim-
15 ited reprogramming authority is granted for the
16 Corps to be able to respond to emergencies: *Pro-*
17 *vided*, That the Chief of Engineers shall notify the
18 House and Senate Committees on Appropriations of
19 these emergency actions as soon thereafter as prac-
20 ticable: *Provided further*, That for a base level over
21 \$1,000,000, reprogramming of 15 percent of the
22 base amount up to a limit of \$5,000,000 per project,
23 study, or activity is allowed: *Provided further*, That
24 for a base level less than \$1,000,000, the re-
25 programming limit is \$150,000: *Provided further*,

1 That \$150,000 may be reprogrammed into any con-
2 tinuing study or activity that did not receive an ap-
3 propriation;

4 (9) MISSISSIPPI RIVER AND TRIBUTARIES.—
5 The reprogramming guidelines in paragraphs (6),
6 (7), and (8) shall apply to the Investigations, Con-
7 struction, and Operation and Maintenance portions
8 of the Mississippi River and Tributaries Account, re-
9 spectively; and

10 (10) FORMERLY UTILIZED SITES REMEDIAL AC-
11 TION PROGRAM.—Reprogramming of up to 15 per-
12 cent of the base of the receiving project is permitted.

13 (b) DE MINIMUS REPROGRAMMINGS.—In no case
14 should a reprogramming for less than \$50,000 be sub-
15 mitted to the House and Senate Committees on Appro-
16 priations.

17 (c) CONTINUING AUTHORITIES PROGRAM.—Sub-
18 section (a)(1) shall not apply to any project or activity
19 funded under the continuing authorities program.

20 (d) Not later than 60 days after the date of enact-
21 ment of this Act, the Secretary shall submit a report to
22 the House and Senate Committees on Appropriations to
23 establish the baseline for application of reprogramming
24 and transfer authorities for the current fiscal year which
25 shall include:

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

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

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

12 (e) The Secretary shall allocate funds made available
13 in this Act solely in accordance with the provisions of this
14 Act and the report of the Committee on Appropriations
15 accompanying this Act, including the determination and
16 designation of new starts.

17 (f) None of the funds made available in this title may
18 be used to award or modify any contract that commits
19 funds beyond the amounts appropriated for that program,
20 project, or activity that remain unobligated, except that
21 such amounts may include any funds that have been made
22 available through reprogramming pursuant to section 101.

23 SEC. 102. The Secretary of the Army may transfer
24 to the Fish and Wildlife Service, and the Fish and Wildlife
25 Service may accept and expend, up to \$5,400,000 of funds

1 provided in this title under the heading “Operation and
2 Maintenance” to mitigate for fisheries lost due to Corps
3 of Engineers civil works projects.

4 SEC. 103. None of the funds made available in this
5 or any other Act making appropriations for Energy and
6 Water Development for any fiscal year may be used by
7 the Corps of Engineers during the fiscal year ending Sep-
8 tember 30, 2017, to develop, adopt, implement, admin-
9 ister, or enforce any change to the regulations in effect
10 on October 1, 2012, pertaining to the definitions of the
11 terms “fill material” or “discharge of fill material” for the
12 purposes of the Federal Water Pollution Control Act (33
13 U.S.C. 1251 et seq.).

14 SEC. 104. None of the funds provided in this act may
15 be used for open lake disposal of dredged sediment in
16 Lake Erie unless such disposal meets water and environ-
17 mental standards agreed to by the administrator of a
18 State’s water permitting agency and is consistent with a
19 State’s Coastal Zone Management Plan. If this standard
20 is not met, the Corps of Engineers will maintain its long-
21 standing funding obligations for upland placement of
22 dredged material with cost sharing as specified in section
23 101 of the Water Resources Development Act of 1986,
24 Public Law 99–662, as amended by section 201 of the
25 Water Resources Development Act of 1996, Public Law

1 104–303 (33 U.S.C. 2211) and section 217(d) of the
2 Water Resources Development Act of 1996, Public Law
3 104–303, as amended by section 2005 of the Water Re-
4 sources Development Act of 2007, Public Law 110–300
5 (33 U.S.C. 2326a(d)).

1 TITLE II
2 DEPARTMENT OF THE INTERIOR
3 CENTRAL UTAH PROJECT
4 CENTRAL UTAH PROJECT COMPLETION ACCOUNT
5 For carrying out activities authorized by the Central
6 Utah Project Completion Act, \$10,000,000, to remain
7 available until expended, of which \$1,300,000 shall be de-
8 posited into the Utah Reclamation Mitigation and Con-
9 servation Account for use by the Utah Reclamation Miti-
10 gation and Conservation Commission: *Provided*, That of
11 the amount provided under this heading, \$1,350,000 shall
12 be available until September 30, 2018, for expenses nec-
13 essary in carrying out related responsibilities of the Sec-
14 retary of the Interior: *Provided further*, That for fiscal
15 year 2017, of the amount made available to the Commis-
16 sion under this Act or any other Act, the Commission may
17 use an amount not to exceed \$1,500,000 for administra-
18 tive expenses.

19 BUREAU OF RECLAMATION
20 The following appropriations shall be expended to
21 execute authorized functions of the Bureau of Reclama-
22 tion:

1 WATER AND RELATED RESOURCES
2 (INCLUDING TRANSFERS 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, federally
10 recognized Indian tribes, and others, \$1,114,394,000, to
11 remain available until expended, of which \$158,841,000
12 shall be available for additional funding for work and are
13 authorized to be used consistent with activities described
14 in the Commissioner's transmittal to Congress dated Feb-
15 ruary 8, 2016; \$22,000 shall be available for transfer to
16 the Upper Colorado River Basin Fund and \$5,551,000
17 shall be available for transfer to the Lower Colorado River
18 Basin Development Fund; of which such amounts as may
19 be necessary may be advanced to the Colorado River Dam
20 Fund: *Provided*, That such transfers may be increased or
21 decreased within the overall appropriation under this
22 heading: *Provided further*, That of the total appropriated,
23 the amount for program activities that can be financed
24 by the Reclamation Fund or the Bureau of Reclamation
25 special fee account established by 16 U.S.C. 6806 shall

1 be derived from that Fund or account: *Provided further*,
2 That funds contributed under 43 U.S.C. 395 are available
3 until expended for the purposes for which the funds were
4 contributed: *Provided further*, That funds advanced under
5 43 U.S.C. 397a shall be credited to this account and are
6 available until expended for the same purposes as the
7 sums appropriated under this heading: *Provided further*,
8 That of the amounts provided herein, funds may be used
9 for high-priority projects which shall be carried out by the
10 Youth Conservation Corps, as authorized by 16 U.S.C.
11 1706.

12 CENTRAL VALLEY PROJECT RESTORATION FUND

13 For carrying out the programs, projects, plans, habi-
14 tat restoration, improvement, and acquisition provisions of
15 the Central Valley Project Improvement Act, \$55,606,000,
16 to be derived from such sums as may be collected in the
17 Central Valley Project Restoration Fund pursuant to sec-
18 tions 3407(d), 3404(c)(3), and 3405(f) of Public Law
19 102-575, to remain available until expended: *Provided*,
20 That the Bureau of Reclamation is directed to assess and
21 collect the full amount of the additional mitigation and
22 restoration payments authorized by section 3407(d) of
23 Public Law 102-575: *Provided further*, That none of the
24 funds made available under this heading may be used for
25 the acquisition or leasing of water for in-stream purposes

1 if the water is already committed to in-stream purposes
2 by a court adopted decree or order.

3 CALIFORNIA BAY-DELTA RESTORATION
4 (INCLUDING TRANSFERS OF FUNDS)

5 For carrying out activities authorized by the Water
6 Supply, Reliability, and Environmental Improvement Act,
7 consistent with plans to be approved by the Secretary of
8 the Interior, \$36,000,000, to remain available until ex-
9 pended, of which such amounts as may be necessary to
10 carry out such activities may be transferred to appropriate
11 accounts of other participating Federal agencies to carry
12 out authorized purposes: *Provided*, That funds appro-
13 priated herein may be used for the Federal share of the
14 costs of CALFED Program management: *Provided fur-*
15 *ther*, That CALFED implementation shall be carried out
16 in a balanced manner with clear performance measures
17 demonstrating concurrent progress in achieving the goals
18 and objectives of the Program.

19 POLICY AND ADMINISTRATION

20 For expenses necessary for policy, administration,
21 and related functions in the Office of the Commissioner,
22 the Denver office, and offices in the five regions of the
23 Bureau of Reclamation, to remain available until Sep-
24 tember 30, 2018, \$59,000,000, to be derived from the
25 Reclamation Fund and be nonreimbursable as provided in

1 43 U.S.C. 377: *Provided*, That no part of any other appro-
2 priation in this Act shall be available for activities or func-
3 tions budgeted as policy and administration expenses.

4 ADMINISTRATIVE PROVISION

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

8 GENERAL PROVISIONS—DEPARTMENT OF THE
9 INTERIOR

10 SEC. 201. (a) None of the funds provided in title II
11 of this Act for Water and Related Resources, or provided
12 by previous or subsequent appropriations Acts to the agen-
13 cies or entities funded in title II of this Act for Water
14 and Related Resources that remain available for obligation
15 or expenditure in fiscal year 2017, shall be available for
16 obligation or expenditure through a reprogramming of
17 funds that—

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

20 (2) eliminates a program, project, or activity
21 unless the program, project or activity has received
22 no appropriated funding for at least five fiscal years;

23 (3) increases funds for any program, project, or
24 activity for which funds have been denied or re-
25 stricted by this Act, unless prior approval is received

1 from the Committees on Appropriations of the
2 House of Representatives and the Senate;

3 (4) restarts or resumes any program, project or
4 activity for which funds are not provided in this Act,
5 unless prior approval is received from the Commit-
6 tees on Appropriations of the House of Representa-
7 tives and the Senate;

8 (5) transfers funds in excess of the following
9 limits, unless prior approval is received from the
10 Committees on Appropriations of the House of Rep-
11 resentatives and the Senate:

12 (A) 15 percent for any program, project or
13 activity for which \$2,000,000 or more is avail-
14 able at the beginning of the fiscal year; or

15 (B) \$400,000 for any program, project or
16 activity for which less than \$2,000,000 is avail-
17 able at the beginning of the fiscal year;

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

1 (7) transfers, where necessary to discharge legal
2 obligations of the Bureau of Reclamation, more than
3 \$5,000,000 to provide adequate funds for settled
4 contractor claims, increased contractor earnings due
5 to accelerated rates of operations, and real estate de-
6 ficiency judgments, unless prior approval is received
7 from the Committees on Appropriations of the
8 House of Representatives and the Senate.

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

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

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

22 SEC. 202. (a) None of the funds appropriated or oth-
23 erwise made available by this Act may be used to deter-
24 mine the final point of discharge for the interceptor drain
25 for the San Luis Unit until development by the Secretary

1 of the Interior and the State of California of a plan, which
2 shall conform to the water quality standards of the State
3 of California as approved by the Administrator of the En-
4 vironmental Protection Agency, to minimize any detri-
5 mental effect of the San Luis drainage waters.

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

22 SEC. 203. Title I of Public Law 108–361 (the Califed
23 Bay-Delta Authorization Act) (118 Stat. 1681), as
24 amended by section 210 of Public Law 111–85, is amend-

1 ed by striking “2017” each place it appears and inserting
2 “2019”.

3 SEC. 204. Section 9504(e) of the Secure Water Act
4 of 2009 (42 U.S.C. 10364(e)) is amended by striking
5 “\$350,000,000” and inserting “\$400,000,000”.

1 TITLE III
2 DEPARTMENT OF ENERGY
3 ENERGY PROGRAMS
4 ENERGY EFFICIENCY AND RENEWABLE ENERGY
5 For Department of Energy expenses including the
6 purchase, construction, and acquisition of plant and cap-
7 ital equipment, and other expenses necessary for energy
8 efficiency and renewable energy activities in carrying out
9 the purposes of the Department of Energy Organization
10 Act (42 U.S.C. 7101 et seq.), including the acquisition or
11 condemnation of any real property or any facility or for
12 plant or facility acquisition, construction, or expansion,
13 \$2,073,000,000, to remain available until expended: *Pro-*
14 *vided*, That of such amount, \$153,500,000 shall be avail-
15 able until September 30, 2018, for program direction.
16 ELECTRICITY DELIVERY AND ENERGY RELIABILITY
17 For Department of Energy expenses including the
18 purchase, construction, and acquisition of plant and cap-
19 ital equipment, and other expenses necessary for elec-
20 tricity delivery and energy reliability activities in carrying
21 out the purposes of the Department of Energy Organiza-
22 tion Act (42 U.S.C. 7101 et seq.), including the acquisi-
23 tion or condemnation of any real property or any facility
24 or for plant or facility acquisition, construction, or expan-
25 sion, \$206,000,000, to remain available until expended:

1 *Provided*, That of such amount, \$28,500,000 shall be
2 available until September 30, 2018, for program direction.

3 NUCLEAR ENERGY

4 For Department of Energy expenses including the
5 purchase, construction, and acquisition of plant and cap-
6 ital equipment, and other expenses necessary for nuclear
7 energy activities in carrying out the purposes of the De-
8 partment of Energy Organization Act (42 U.S.C. 7101 et
9 seq.), including the acquisition or condemnation of any
10 real property or any facility or for plant or facility acqui-
11 sition, construction, or expansion, and the purchase of no
12 more than three emergency service vehicles for replace-
13 ment only, \$1,057,903,000, to remain available until ex-
14 pended: *Provided*, That of such amount, the Secretary of
15 Energy may obligate up to \$10,000,000 under existing au-
16 thorities, for contracting for the management of used nu-
17 clear fuel to which the Secretary holds the title or has
18 a contract to accept title: *Provided further*, That of such
19 amount, \$80,000,000 shall be available until September
20 30, 2018, for program direction.

21 FOSSIL ENERGY RESEARCH AND DEVELOPMENT

22 For Department of Energy expenses necessary in car-
23 rying out fossil energy research and development activi-
24 ties, under the authority of the Department of Energy Or-
25 ganization Act (42 U.S.C. 7101 et seq.), including the ac-

1 quision of interest, including defeasible and equitable in-
2 terests in any real property or any facility or for plant
3 or facility acquisition or expansion, and for conducting in-
4 quires, technological investigations and research con-
5 cerning the extraction, processing, use, and disposal of
6 mineral substances without objectionable social and envi-
7 ronmental costs (30 U.S.C. 3, 1602, and 1603),
8 \$632,000,000, to remain available until expended: *Pro-*
9 *vided*, That of the amount made available under this head-
10 ing in this Act, \$60,000,000 shall be available until Sep-
11 tember 30, 2018, for program direction.

12 NAVAL PETROLEUM AND OIL SHALE RESERVES

13 For Department of Energy expenses necessary to
14 carry out naval petroleum and oil shale reserve activities,
15 \$14,950,000, to remain available until expended: *Pro-*
16 *vided*, That notwithstanding any other provision of law,
17 unobligated funds remaining from prior years shall be
18 available for all naval petroleum and oil shale reserve ac-
19 tivities.

20 STRATEGIC PETROLEUM RESERVE

21 For Department of Energy expenses necessary for
22 Strategic Petroleum Reserve facility development and op-
23 erations and program management activities pursuant to
24 the Energy Policy and Conservation Act (42 U.S.C. 6201
25 et seq.), \$200,000,000, to remain available until expended.

1 *Provided*, That as authorized by section 404 of the Bipar-
2 tisan Budget Act of 2015 (Public Law 114–74), the Sec-
3 retary of the Department of Energy shall drawdown and
4 sell not to exceed \$375,400,000 of crude oil from the Stra-
5 tegic Petroleum Reserve in fiscal year 2017: *Provided fur-*
6 *ther*, That the proceeds from such drawdown and sale shall
7 be deposited into the Energy Security and Infrastructure
8 Modernization Fund during fiscal year 2017 and shall re-
9 main available until expended for necessary expenses in
10 carrying out construction, operations, maintenance, re-
11 pair, and replacement activities of the Strategic Petroleum
12 Reserve.

13 NORTHEAST HOME HEATING OIL RESERVE

14 For Department of Energy expenses necessary for
15 Northeast Home Heating Oil Reserve storage, operation,
16 and management activities pursuant to the Energy Policy
17 and Conservation Act (42 U.S.C. 6201 et seq.),
18 \$6,500,000, to remain available until expended.

19 ENERGY INFORMATION ADMINISTRATION

20 For Department of Energy expenses necessary in car-
21 rying out the activities of the Energy Information Admin-
22 istration, \$122,000,000, to remain available until ex-
23 pended.

1 ital equipment, and other expenses necessary for science
2 activities in carrying out the purposes of the Department
3 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
4 cluding the acquisition or condemnation of any real prop-
5 erty or facility or for plant or facility acquisition, construc-
6 tion, or expansion, and purchase of not more than 17 pas-
7 senger motor vehicles for replacement only, including one
8 ambulance and one bus, \$5,400,000,000, to remain avail-
9 able until expended: *Provided*, That of such amount,
10 \$191,500,000 shall be available until September 30, 2018,
11 for program direction.

12 ADVANCED RESEARCH PROJECTS AGENCY—ENERGY

13 For Department of Energy expenses necessary in car-
14 rying out the activities authorized by section 5012 of the
15 America COMPETES Act (Public Law 110–69),
16 \$292,669,000, to remain available until expended: *Pro-*
17 *vided*, That of such amount, \$29,250,000 shall be avail-
18 able until September 30, 2018, for program direction.

19 OFFICE OF INDIAN ENERGY

20 For necessary expenses for Indian Energy activities
21 in carrying out the purposes of the Department of Energy
22 Organization Act (42 U.S.C. 7101 et seq.), \$20,000,000,
23 to remain available until expended: *Provided*, That, of the
24 amount appropriated under this heading, \$4,800,000 shall

1 be available until September 30, 2018, for program direc-
2 tion.

3 TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE
4 PROGRAM

5 Such sums as are derived from amounts received
6 from borrowers pursuant to section 1702(b) of the Energy
7 Policy Act of 2005 under this heading in prior Acts, shall
8 be collected in accordance with section 502(7) of the Con-
9 gressional Budget Act of 1974: *Provided*, That for nec-
10 essary administrative expenses to carry out this Loan
11 Guarantee program, \$37,000,000 is appropriated from
12 fees collected in prior years pursuant to section 1702(h)
13 of the Energy Policy Act of 2005 which are not otherwise
14 appropriated, to remain available until September 30,
15 2018: *Provided further*, That if the amount in the previous
16 proviso is not available from such fees, an amount for such
17 purposes is also appropriated from the general fund so as
18 to result in a total amount appropriated for such purpose
19 of no more than \$37,000,000: *Provided further*, That fees
20 collected pursuant to such section 1702(h) for fiscal year
21 2017 shall be credited as offsetting collections under this
22 heading and shall not be available until appropriated: *Pro-*
23 *vided further*, That the Department of Energy shall not
24 subordinate any loan obligation to other financing in viola-
25 tion of section 1702 of the Energy Policy Act of 2005 or

1 and used for operating expenses within this account, as
2 authorized by section 201 of Public Law 95–238, notwith-
3 standing the provisions of 31 U.S.C. 3302: *Provided fur-*
4 *ther*, That the sum herein appropriated shall be reduced
5 as collections are received during the fiscal year so as to
6 result in a final fiscal year 2017 appropriation from the
7 general fund estimated at not more than \$129,142,000.

8 OFFICE OF THE INSPECTOR GENERAL

9 For expenses necessary for the Office of the Inspector
10 General in carrying out the provisions of the Inspector
11 General Act of 1978, \$44,424,000, to remain available
12 until September 30, 2018.

13 ATOMIC ENERGY DEFENSE ACTIVITIES

14 NATIONAL NUCLEAR SECURITY

15 ADMINISTRATION

16 WEAPONS ACTIVITIES

17 For Department of Energy expenses, including the
18 purchase, construction, and acquisition of plant and cap-
19 ital equipment and other incidental expenses necessary for
20 atomic energy defense weapons activities in carrying out
21 the purposes of the Department of Energy Organization
22 Act (42 U.S.C. 7101 et seq.), including the acquisition or
23 condemnation of any real property or any facility or for
24 plant or facility acquisition, construction, or expansion,
25 \$9,285,147,000, to remain available until expended: *Pro-*

1 *vided*, That of such amount, \$106,600,000 shall be avail-
2 able until September 30, 2018, for program direction.

3 DEFENSE NUCLEAR NONPROLIFERATION

4 For Department of Energy expenses, including the
5 purchase, construction, and acquisition of plant and cap-
6 ital equipment and other incidental expenses necessary for
7 defense nuclear nonproliferation activities, in carrying out
8 the purposes of the Department of Energy Organization
9 Act (42 U.S.C. 7101 et seq.), including the acquisition or
10 condemnation of any real property or any facility or for
11 plant or facility acquisition, construction, or expansion,
12 \$1,821,916,000, to remain available until expended.

13 NAVAL REACTORS

14 For Department of Energy expenses necessary for
15 naval reactors activities to carry out the Department of
16 Energy Organization Act (42 U.S.C. 7101 et seq.), includ-
17 ing the acquisition (by purchase, condemnation, construc-
18 tion, or otherwise) of real property, plant, and capital
19 equipment, facilities, and facility expansion,
20 \$1,351,520,000, to remain available until expended: *Pro-*
21 *vided*, That of such amount, \$47,100,000 shall be avail-
22 able until September 30, 2018, for program direction.

23 FEDERAL SALARIES AND EXPENSES

24 For expenses necessary for Federal Salaries and Ex-
25 penses in the National Nuclear Security Administration,

1 \$408,603,000, to remain available until September 30,
2 2018, including official reception and representation ex-
3 penses not to exceed \$12,000.

4 ENVIRONMENTAL AND OTHER DEFENSE
5 ACTIVITIES

6 DEFENSE ENVIRONMENTAL CLEANUP

7 For Department of Energy expenses, including the
8 purchase, construction, and acquisition of plant and cap-
9 ital equipment and other expenses necessary for atomic
10 energy defense environmental cleanup activities in car-
11 rying out the purposes of the Department of Energy Orga-
12 nization Act (42 U.S.C. 7101 et seq.), including the acqui-
13 sition or condemnation of any real property or any facility
14 or for plant or facility acquisition, construction, or expan-
15 sion, and the purchase of not to exceed one fire apparatus
16 pumper truck, one aerial lift truck, one refuse truck, and
17 one semi-truck for replacement only, \$5,379,018,000, to
18 remain available until expended: *Provided*, That of such
19 amount \$290,050,000 shall be available until September
20 30, 2018, for program direction.

21 DEFENSE URANIUM ENRICHMENT DECONTAMINATION
22 AND DECOMMISSIONING
23 (INCLUDING TRANSFER OF FUNDS)

24 For an additional amount for atomic energy defense
25 environmental cleanup activities for Department of En-

1 ergy contributions for uranium enrichment decontamina-
2 tion and decommissioning activities, \$717,741,000, to be
3 deposited into the Defense Environmental Cleanup ac-
4 count which shall be transferred to the “Uranium Enrich-
5 ment Decontamination and Decommissioning Fund”.

6 OTHER DEFENSE ACTIVITIES

7 For Department of Energy expenses, including the
8 purchase, construction, and acquisition of plant and cap-
9 ital equipment and other expenses, necessary for atomic
10 energy defense, other defense activities, and classified ac-
11 tivities, in carrying out the purposes of the Department
12 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
13 cluding the acquisition or condemnation of any real prop-
14 erty or any facility or for plant or facility acquisition, con-
15 struction, or expansion, \$791,552,000, to remain available
16 until expended: *Provided*, That of such amount,
17 \$258,061,000 shall be available until September 30, 2018,
18 for program direction.

19 POWER MARKETING ADMINISTRATIONS

20 BONNEVILLE POWER ADMINISTRATION FUND

21 Expenditures from the Bonneville Power Administra-
22 tion Fund, established pursuant to Public Law 93-454,
23 are approved for official reception and representation ex-
24 penses in an amount not to exceed \$5,000: *Provided*, That

1 during fiscal year 2017, no new direct loan obligations
2 may be made.

3 OPERATION AND MAINTENANCE, SOUTHEASTERN POWER
4 ADMINISTRATION

5 For expenses necessary for operation and mainte-
6 nance of power transmission facilities and for marketing
7 electric power and energy, including transmission wheeling
8 and ancillary services, pursuant to section 5 of the Flood
9 Control Act of 1944 (16 U.S.C. 825s), as applied to the
10 southeastern power area, \$1,000,000, including official re-
11 ception and representation expenses in an amount not to
12 exceed \$1,500, to remain available until expended: *Pro-*
13 *vided*, That notwithstanding 31 U.S.C. 3302 and section
14 5 of the Flood Control Act of 1944, up to \$1,000,000 col-
15 lected by the Southeastern Power Administration from the
16 sale of power and related services shall be credited to this
17 account as discretionary offsetting collections, to remain
18 available until expended for the sole purpose of funding
19 the annual expenses of the Southeastern Power Adminis-
20 tration: *Provided further*, That the sum herein appro-
21 priated for annual expenses shall be reduced as collections
22 are received during the fiscal year so as to result in a final
23 fiscal year 2017 appropriation estimated at not more than
24 \$0: *Provided further*, That notwithstanding 31 U.S.C.
25 3302, up to \$60,760,000 collected by the Southeastern

1 Power Administration pursuant to the Flood Control Act
2 of 1944 to recover purchase power and wheeling expenses
3 shall be credited to this account as offsetting collections,
4 to remain available until expended for the sole purpose
5 of making purchase power and wheeling expenditures:
6 *Provided further*, That for purposes of this appropriation,
7 annual expenses means expenditures that are generally re-
8 covered in the same year that they are incurred (excluding
9 purchase power and wheeling expenses).

10 OPERATION AND MAINTENANCE, SOUTHWESTERN

11 POWER ADMINISTRATION

12 For expenses necessary for operation and mainte-
13 nance of power transmission facilities and for marketing
14 electric power and energy, for construction and acquisition
15 of transmission lines, substations and appurtenant facili-
16 ties, and for administrative expenses, including official re-
17 ception and representation expenses in an amount not to
18 exceed \$1,500 in carrying out section 5 of the Flood Con-
19 trol Act of 1944 (16 U.S.C. 825s), as applied to the
20 Southwestern Power Administration, \$45,643,000, to re-
21 main available until expended: *Provided*, That notwith-
22 standing 31 U.S.C. 3302 and section 5 of the Flood Con-
23 trol Act of 1944 (16 U.S.C. 825s), up to \$34,586,000 col-
24 lected by the Southwestern Power Administration from
25 the sale of power and related services shall be credited to

1 this account as discretionary offsetting collections, to re-
2 main available until expended, for the sole purpose of
3 funding the annual expenses of the Southwestern Power
4 Administration: *Provided further*, That the sum herein ap-
5 propriated for annual expenses shall be reduced as collec-
6 tions are received during the fiscal year so as to result
7 in a final fiscal year 2017 appropriation estimated at not
8 more than \$11,057,000: *Provided further*, That notwith-
9 standing 31 U.S.C. 3302, up to \$73,000,000 collected by
10 the Southwestern Power Administration pursuant to the
11 Flood Control Act of 1944 to recover purchase power and
12 wheeling expenses shall be credited to this account as off-
13 setting collections, to remain available until expended for
14 the sole purpose of making purchase power and wheeling
15 expenditures: *Provided further*, That for purposes of this
16 appropriation, annual expenses means expenditures that
17 are generally recovered in the same year that they are in-
18 curred (excluding purchase power and wheeling expenses).

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

22 For carrying out the functions authorized by title III,
23 section 302(a)(1)(E) of the Act of August 4, 1977 (42
24 U.S.C. 7152), and other related activities including con-
25 servation and renewable resources programs as author-

1 ized, \$307,144,000, including official reception and rep-
2 resentation expenses in an amount not to exceed \$1,500,
3 to remain available until expended, of which \$299,742,000
4 shall be derived from the Department of the Interior Rec-
5 lamation Fund: *Provided*, That notwithstanding 31 U.S.C.
6 3302, section 5 of the Flood Control Act of 1944 (16
7 U.S.C. 825s), and section 1 of the Interior Department
8 Appropriation Act, 1939 (43 U.S.C. 392a), up to
9 \$211,563,000 collected by the Western Area Power Ad-
10 ministration from the sale of power and related services
11 shall be credited to this account as discretionary offsetting
12 collections, to remain available until expended, for the sole
13 purpose of funding the annual expenses of the Western
14 Area Power Administration: *Provided further*, That the
15 sum herein appropriated for annual expenses shall be re-
16 duced as collections are received during the fiscal year so
17 as to result in a final fiscal year 2017 appropriation esti-
18 mated at not more than \$95,581,000, of which
19 \$88,179,000 is derived from the Reclamation Fund: *Pro-*
20 *vided further*, That notwithstanding 31 U.S.C. 3302, up
21 to \$367,009,000 collected by the Western Area Power Ad-
22 ministration pursuant to the Flood Control Act of 1944
23 and the Reclamation Project Act of 1939 to recover pur-
24 chase power and wheeling expenses shall be credited to
25 this account as offsetting collections, to remain available

1 until expended for the sole purpose of making purchase
2 power and wheeling expenditures: *Provided further*, That
3 for purposes of this appropriation, annual expenses means
4 expenditures that are generally recovered in the same year
5 that they are incurred (excluding purchase power and
6 wheeling expenses).

7 FALCON AND AMISTAD OPERATING AND MAINTENANCE
8 FUND

9 For operation, maintenance, and emergency costs for
10 the hydroelectric facilities at the Falcon and Amistad
11 Dams, \$4,070,000, to remain available until expended,
12 and to be derived from the Falcon and Amistad Operating
13 and Maintenance Fund of the Western Area Power Ad-
14 ministration, as provided in section 2 of the Act of June
15 18, 1954 (68 Stat. 255): *Provided*, That notwithstanding
16 the provisions of that Act and of 31 U.S.C. 3302, up to
17 \$3,838,000 collected by the Western Area Power Adminis-
18 tration from the sale of power and related services from
19 the Falcon and Amistad Dams shall be credited to this
20 account as discretionary offsetting collections, to remain
21 available until expended for the sole purpose of funding
22 the annual expenses of the hydroelectric facilities of these
23 Dams and associated Western Area Power Administration
24 activities: *Provided further*, That the sum herein appro-
25 priated for annual expenses shall be reduced as collections

1 are received during the fiscal year so as to result in a final
2 fiscal year 2017 appropriation estimated at not more than
3 \$232,000: *Provided further*, That for purposes of this ap-
4 propriation, annual expenses means expenditures that are
5 generally recovered in the same year that they are in-
6 curred: *Provided further*, That for fiscal year 2017, the
7 Administrator of the Western Area Power Administration
8 may accept up to \$323,000 in funds contributed by United
9 States power customers of the Falcon and Amistad Dams
10 for deposit into the Falcon and Amistad Operating and
11 Maintenance Fund, and such funds shall be available for
12 the purpose for which contributed in like manner as if said
13 sums had been specifically appropriated for such purpose:
14 *Provided further*, That any such funds shall be available
15 without further appropriation and without fiscal year limi-
16 tation for use by the Commissioner of the United States
17 Section of the International Boundary and Water Com-
18 mission for the sole purpose of operating, maintaining, re-
19 pairing, rehabilitating, replacing, or upgrading the hydro-
20 electric facilities at these Dams in accordance with agree-
21 ments reached between the Administrator, Commissioner,
22 and the power customers.

1 FEDERAL ENERGY REGULATORY COMMISSION
2 SALARIES AND EXPENSES

3 For expenses necessary for the Federal Energy Regu-
4 latory Commission to carry out the provisions of the De-
5 partment of Energy Organization Act (42 U.S.C. 7101 et
6 seq.), including services as authorized by 5 U.S.C. 3109,
7 official reception and representation expenses not to ex-
8 ceed \$3,000, and the hire of passenger motor vehicles,
9 \$346,800,000, to remain available until expended: *Pro-*
10 *vided*, That notwithstanding any other provision of law,
11 not to exceed \$346,800,000 of revenues from fees and an-
12 nual charges, and other services and collections in fiscal
13 year 2017 shall be retained and used for expenses nec-
14 essary in this account, and shall remain available until ex-
15 pended: *Provided further*, That the sum herein appro-
16 priated from the general fund shall be reduced as revenues
17 are received during fiscal year 2017 so as to result in a
18 final fiscal year 2017 appropriation from the general fund
19 estimated at not more than \$0.

20 GENERAL PROVISIONS—DEPARTMENT OF
21 ENERGY

22 (INCLUDING TRANSFER OF FUNDS)

23 SEC. 301. (a) No appropriation, funds, or authority
24 made available by this title for the Department of Energy
25 shall be used to initiate or resume any program, project,

1 or activity or to prepare or initiate Requests For Proposals
2 or similar arrangements (including Requests for
3 Quotations, Requests for Information, and Funding Op-
4 portunity Announcements) for a program, project, or ac-
5 tivity if the program, project, or activity has not been
6 funded by Congress.

7 (b)(1) Unless the Secretary of Energy notifies the
8 Committees on Appropriations of both Houses of Congress
9 at least 3 full business days in advance, none of the funds
10 made available in this title may be used to—

11 (A) make a grant allocation or discretionary
12 grant award totaling \$1,000,000 or more;

13 (B) make a discretionary contract award or
14 Other Transaction Agreement totaling \$1,000,000
15 or more, including a contract covered by the Federal
16 Acquisition Regulation;

17 (C) issue a letter of intent to make an alloca-
18 tion, award, or Agreement in excess of the limits in
19 subparagraph (A) or (B); or

20 (D) announce publicly the intention to make an
21 allocation, award, or Agreement in excess of the lim-
22 its in subparagraph (A) or (B).

23 (2) The Secretary of Energy shall submit to the Com-
24 mittees on Appropriations of both Houses of Congress
25 within 15 days of the conclusion of each quarter a report

1 detailing each grant allocation or discretionary grant
2 award totaling less than \$1,000,000 provided during the
3 previous quarter.

4 (3) The notification required by paragraph (1) and
5 the report required by paragraph (2) shall include the re-
6 cipient of the award, the amount of the award, the fiscal
7 year for which the funds for the award were appropriated,
8 the account and program, project, or activity from which
9 the funds are being drawn, the title of the award, and
10 a brief description of the activity for which the award is
11 made.

12 (c) The Department of Energy may not, with respect
13 to any program, project, or activity that uses budget au-
14 thority made available in this title under the heading “De-
15 partment of Energy—Energy Programs”, enter into a
16 multiyear contract, award a multiyear grant, or enter into
17 a multiyear cooperative agreement unless—

18 (1) the contract, grant, or cooperative agree-
19 ment is funded for the full period of performance as
20 anticipated at the time of award; or

21 (2) the contract, grant, or cooperative agree-
22 ment includes a clause conditioning the Federal Gov-
23 ernment’s obligation on the availability of future
24 year budget authority and the Secretary notifies the

1 Committees on Appropriations of both Houses of
2 Congress at least 3 days in advance.

3 (d) Except as provided in subsections (e), (f), and (g),
4 the amounts made available by this title shall be expended
5 as authorized by law for the programs, projects, and ac-
6 tivities specified in the “Final Bill” column in the “De-
7 partment of Energy” table included under the heading
8 “Title III—Department of Energy” in the report of the
9 Committee on Appropriations accompanying this Act.

10 (e) The amounts made available by this title may be
11 reprogrammed for any program, project, or activity, and
12 the Department shall notify the Committees on Appropria-
13 tions of both Houses of Congress at least 30 days prior
14 to the use of any proposed reprogramming that would
15 cause any program, project, or activity funding level to
16 increase or decrease by more than \$5,000,000 or 10 per-
17 cent, whichever is less, during the time period covered by
18 this Act.

19 (f) None of the funds provided in this title shall be
20 available for obligation or expenditure through a re-
21 programming of funds that—

22 (1) creates, initiates, or eliminates a program,
23 project, or activity;

1 (2) increases funds or personnel for any pro-
2 gram, project, or activity for which funds are denied
3 or restricted by this Act; or

4 (3) reduces funds that are directed to be used
5 for a specific program, project, or activity by this
6 Act.

7 (g)(1) The Secretary of Energy may waive any re-
8 quirement or restriction in this section that applies to the
9 use of funds made available for the Department of Energy
10 if compliance with such requirement or restriction would
11 pose a substantial risk to human health, the environment,
12 welfare, or national security.

13 (2) The Secretary of Energy shall notify the Commit-
14 tees on Appropriations of both Houses of Congress of any
15 waiver under paragraph (1) as soon as practicable, but
16 not later than 3 days after the date of the activity to which
17 a requirement or restriction would otherwise have applied.
18 Such notice shall include an explanation of the substantial
19 risk under paragraph (1) that permitted such waiver.

20 (h) The unexpended balances of prior appropriations
21 provided for activities in this Act may be available to the
22 same appropriation accounts for such activities established
23 pursuant to this title. Available balances may be merged
24 with funds in the applicable established accounts and

1 thereafter may be accounted for as one fund for the same
2 time period as originally enacted.

3 SEC. 302. (a) Unobligated balances available from
4 appropriations are hereby permanently rescinded from the
5 following accounts of the Department of Energy in the
6 specified amounts:

7 (1) “Atomic Energy Defense Activities—Na-
8 tional Nuclear Security Administration—Weapons
9 Activities”, \$50,400,000.

10 (2) “Atomic Energy Defense Activities—Na-
11 tional Nuclear Security Administration—Defense
12 Nuclear Nonproliferation”, \$14,000,000.

13 (3) “Energy Program—Fossil Energy Research
14 and Development”, \$240,000,000.

15 (b) No amounts may be rescinded by this section
16 from amounts that were designated by Congress as an
17 emergency requirement pursuant to a concurrent resolu-
18 tion on the budget or the Balanced Budget and Emer-
19 gency Deficit Control Act of 1985.

20 SEC. 303. Funds appropriated by this or any other
21 Act, or made available by the transfer of funds in this
22 Act, for intelligence activities are deemed to be specifically
23 authorized by the Congress for purposes of section 504
24 of the National Security Act of 1947 (50 U.S.C. 3094)

1 during fiscal year 2017 until the enactment of the Intel-
2 ligence Authorization Act for fiscal year 2017.

3 SEC. 304. None of the funds made available in this
4 title shall be used for the construction of facilities classi-
5 fied as high-hazard nuclear facilities under 10 CFR Part
6 830 unless independent oversight is conducted by the Of-
7 fice of Enterprise Assessments to ensure the project is in
8 compliance with nuclear safety requirements.

9 SEC. 305. None of the funds made available in this
10 title may be used to approve critical decision-2 or critical
11 decision-3 under Department of Energy Order 413.3B, or
12 any successive departmental guidance, for construction
13 projects where the total project cost exceeds
14 \$100,000,000, until a separate independent cost estimate
15 has been developed for the project for that critical deci-
16 sion.

17 SEC. 306. (a) DEFINITIONS.—In this section:

18 (1) AFFECTED INDIAN TRIBE.—The term “af-
19 fected Indian tribe” has the meaning given the term
20 in section 2 of the Nuclear Waste Policy Act of 1982
21 (42 U.S.C. 10101).

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

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

5 (4) SECRETARY.—The term “Secretary” means
6 the Secretary of Energy.

7 (5) SPENT NUCLEAR FUEL.—The term “spent
8 nuclear fuel” has the meaning given the term in sec-
9 tion 2 of the Nuclear Waste Policy Act of 1982 (42
10 U.S.C. 10101).

11 (b) PILOT PROGRAM.—Notwithstanding any provi-
12 sion of the Nuclear Waste Policy Act of 1982 (42 U.S.C.
13 10101 et seq.), the Secretary is authorized, in the current
14 fiscal year and subsequent fiscal years, to conduct a pilot
15 program, through 1 or more private sector partners, to
16 license, construct, and operate 1 or more government or
17 privately owned consolidated storage facilities to provide
18 interim storage as needed for spent nuclear fuel and high-
19 level radioactive waste, with priority for storage given to
20 spent nuclear fuel located on sites without an operating
21 nuclear reactor.

22 (c) REQUESTS FOR PROPOSALS.—Not later than 120
23 days after the date of enactment of this Act, the Secretary
24 shall issue a request for proposals for cooperative agree-
25 ments—

1 (1) to obtain any license necessary from the
2 Nuclear Regulatory Commission for the construction
3 of 1 or more consolidated storage facilities;

4 (2) to demonstrate the safe transportation of
5 spent nuclear fuel and high-level radioactive waste,
6 as applicable; and

7 (3) to demonstrate the safe storage of spent nu-
8 clear fuel and high-level radioactive waste, as appli-
9 cable, at the 1 or more consolidated storage facilities
10 pending the construction and operation of deep geo-
11 logic disposal capacity for the permanent disposal of
12 the spent nuclear fuel.

13 (d) CONSENT-BASED APPROVAL.—Prior to siting a
14 consolidated storage facility pursuant to this section, the
15 Secretary shall enter into an agreement to host the facility
16 with—

17 (1) the Governor of the State;

18 (2) each unit of local government within the ju-
19 risdiction of which the facility is proposed to be lo-
20 cated; and

21 (3) each affected Indian tribe.

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

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

1 (2) all other applicable laws (including regula-
2 tions).

3 (f) PILOT PROGRAM PLAN.—Not later than 120 days
4 after the date on which the Secretary issues the request
5 for proposals under subsection (c), the Secretary shall sub-
6 mit to Congress a plan to carry out this section that in-
7 cludes—

8 (1) an estimate of the cost of licensing, con-
9 structing, and operating a consolidated storage facil-
10 ity, including the transportation costs, on an annual
11 basis, over the expected lifetime of the facility;

12 (2) a schedule for—

13 (A) obtaining any license necessary to con-
14 struct and operate a consolidated storage facil-
15 ity from the Nuclear Regulatory Commission;

16 (B) constructing the facility;

17 (C) transporting spent fuel to the facility;

18 and

19 (D) removing the spent fuel and decom-
20 missioning the facility; and

21 (3) an estimate of the cost of any financial as-
22 sistance, compensation, or incentives proposed to be
23 paid to the host State, Indian tribe, or local govern-
24 ment;

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

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

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

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

1 (h) USE OF NUCLEAR WASTE FUND.—The Secretary
2 may make expenditures from the Nuclear Waste Fund to
3 carry out this section, subject to appropriations.

1 TITLE IV
2 INDEPENDENT AGENCIES
3 APPALACHIAN REGIONAL COMMISSION

4 For expenses necessary to carry out the programs au-
5 thorized by the Appalachian Regional Development Act of
6 1965, and for expenses necessary for the Federal Co-
7 Chairman and the Alternate on the Appalachian Regional
8 Commission, for payment of the Federal share of the ad-
9 ministrative expenses of the Commission, including serv-
10 ices as authorized by 5 U.S.C. 3109, and hire of passenger
11 motor vehicles, \$151,000,000, to remain available until ex-
12 pended.

13 DEFENSE NUCLEAR FACILITIES SAFETY BOARD
14 SALARIES AND EXPENSES

15 For expenses necessary for the Defense Nuclear Fa-
16 cilities Safety Board in carrying out activities authorized
17 by the Atomic Energy Act of 1954, as amended by Public
18 Law 100–456, section 1441, \$31,000,000, to remain
19 available until September 30, 2018.

20 DELTA REGIONAL AUTHORITY
21 SALARIES AND EXPENSES

22 For expenses necessary for the Delta Regional Au-
23 thority and to carry out its activities, as authorized by
24 the Delta Regional Authority Act of 2000, notwith-
25 standing sections 382C(b)(2), 382F(d), 382M, and 382N

1 of said Act, \$25,000,000, to remain available until ex-
2 pended.

3 DENALI COMMISSION

4 For expenses necessary for the Denali Commission
5 including the purchase, construction, and acquisition of
6 plant and capital equipment as necessary and other ex-
7 penses, \$15,000,000, to remain available until expended,
8 notwithstanding the limitations contained in section
9 306(g) of the Denali Commission Act of 1998: *Provided*,
10 That funds shall be available for construction projects in
11 an amount not to exceed 80 percent of total project cost
12 for distressed communities, as defined by section 307 of
13 the Denali Commission Act of 1998 (division C, title III,
14 Public Law 105–277), as amended by section 701 of ap-
15 pendix D, title VII, Public Law 106–113 (113 Stat.
16 1501A–280), and an amount not to exceed 50 percent for
17 non-distressed communities: *Provided further*, That, not-
18 withstanding any other provision of law regarding pay-
19 ment of a non-Federal share in connection with a grant-
20 in-aid program, amounts under this heading shall be avail-
21 able for the payment of such a non-Federal share for pro-
22 grams undertaken to carry out the purposes of the Com-
23 mission.

1 NORTHERN BORDER REGIONAL COMMISSION

2 For expenses necessary for the Northern Border Re-
3 gional Commission in carrying out activities authorized by
4 subtitle V of title 40, United States Code, \$10,000,000,
5 to remain available until expended: *Provided*, That such
6 amounts shall be available for administrative expenses,
7 notwithstanding section 15751(b) of title 40, United
8 States Code.

9 NUCLEAR REGULATORY COMMISSION

10 SALARIES AND EXPENSES

11 For expenses necessary for the Commission in car-
12 rying out the purposes of the Energy Reorganization Act
13 of 1974 and the Atomic Energy Act of 1954,
14 \$939,000,000, including official representation expenses
15 not to exceed \$25,000, to remain available until expended:
16 *Provided*, That of the amount appropriated herein, not
17 more than \$7,500,000 may be made available for salaries,
18 travel, and other support costs for the Office of the Com-
19 mission, to remain available until September 30, 2018, of
20 which, notwithstanding section 201(a)(2)(c) of the Energy
21 Reorganization Act of 1974 (42 U.S.C. 5841(a)(2)(c)),
22 the use and expenditure shall only be approved by a major-
23 ity vote of the Commission: *Provided further*, That reve-
24 nues from licensing fees, inspection services, and other
25 services and collections estimated at \$822,240,000 in fis-

1 cal year 2017 shall be retained and used for necessary
2 salaries and expenses in this account, notwithstanding 31
3 U.S.C. 3302, and shall remain available until expended:
4 *Provided further*, That of the amounts appropriated under
5 this heading, not less than \$5,000,000 shall be for activi-
6 ties related to the development of regulatory infrastruc-
7 ture for advanced nuclear reactor technologies, and
8 \$5,000,000 of that amount shall not be available from fee
9 revenues, notwithstanding 42 U.S.C. 2214: *Provided fur-*
10 *ther*, That the sum herein appropriated shall be reduced
11 by the amount of revenues received during fiscal year
12 2017 so as to result in a final fiscal year 2017 appropria-
13 tion estimated at not more than \$116,760,000.

14 OFFICE OF INSPECTOR GENERAL

15 For expenses necessary for the Office of Inspector
16 General in carrying out the provisions of the Inspector
17 General Act of 1978, \$12,129,000, to remain available
18 until September 30, 2018: *Provided*, That revenues from
19 licensing fees, inspection services, and other services and
20 collections estimated at \$10,044,000 in fiscal year 2017
21 shall be retained and be available until September 30,
22 2018, for necessary salaries and expenses in this account,
23 notwithstanding section 3302 of title 31, United States
24 Code: *Provided further*, That the sum herein appropriated
25 shall be reduced by the amount of revenues received dur-

1 ing fiscal year 2017 so as to result in a final fiscal year
2 2017 appropriation estimated at not more than
3 \$2,085,000: *Provided further*, That of the amounts appro-
4 priated under this heading, \$969,000 shall be for Inspec-
5 tor General services for the Defense Nuclear Facilities
6 Safety Board, which shall not be available from fee reve-
7 nues.

8 NUCLEAR WASTE TECHNICAL REVIEW BOARD

9 SALARIES AND EXPENSES

10 For expenses necessary for the Nuclear Waste Tech-
11 nical Review Board, as authorized by Public Law 100-
12 203, section 5051, \$3,600,000, to be derived from the Nu-
13 clear Waste Fund, to remain available until September 30,
14 2018.

15 GENERAL PROVISIONS—INDEPENDENT

16 AGENCIES

17 SEC. 401. (a) The amounts made available by this
18 title for the Nuclear Regulatory Commission may be re-
19 programmed for any program, project, or activity, and the
20 Commission shall notify the Committees on Appropria-
21 tions of both Houses of Congress at least 30 days prior
22 to the use of any proposed reprogramming that would
23 cause any program funding level to increase or decrease
24 by more than \$500,000 or 10 percent, whichever is less,
25 during the time period covered by this Act.

1 (b)(1) The Nuclear Regulatory Commission may
2 waive the notification requirement in (a) if compliance
3 with such requirement would pose a substantial risk to
4 human health, the environment, welfare, or national secu-
5 rity.

6 (2) The Nuclear Regulatory Commission shall notify
7 the Committees on Appropriations of both Houses of Con-
8 gress of any waiver under paragraph (1) as soon as prac-
9 ticable, but not later than 3 days after the date of the
10 activity to which a requirement or restriction would other-
11 wise have applied. Such notice shall include an explanation
12 of the substantial risk under paragraph (1) that permitted
13 such waiver and shall provide a detailed report to the
14 Committees of such waiver and changes to funding levels
15 to programs, projects, or activities.

16 (c) Except as provided in subsections (a), (b), and
17 (d), the amounts made available by this title for “Nuclear
18 Regulatory Commission—Salaries and Expenses” shall be
19 expended as directed in the report accompanying this Act.

20 (d) None of the funds provided for the Nuclear Regu-
21 latory Commission shall be available for obligation or ex-
22 penditure through a reprogramming of funds that in-
23 creases funds or personnel for any program, project, or
24 activity for which funds are denied or restricted by this
25 Act.

1 (e) The Commission shall provide a monthly report
2 to the Committees on Appropriations of both Houses of
3 Congress, which includes the following for each program,
4 project, or activity, including any prior year appropria-
5 tions—

- 6 (1) total budget authority;
- 7 (2) total unobligated balances; and
- 8 (3) total unliquidated obligations.

TITLE V

GENERAL PROVISIONS

1
2
3 SEC. 501. None of the funds appropriated by this Act
4 may be used in any way, directly or indirectly, to influence
5 congressional action on any legislation or appropriation
6 matters pending before Congress, other than to commu-
7 nicate to Members of Congress as described in 18 U.S.C.
8 1913.

9 SEC. 502. (a) None of the funds made available in
10 title III of this Act may be transferred to any department,
11 agency, or instrumentality of the United States Govern-
12 ment, except pursuant to a transfer made by or transfer
13 authority provided in this Act or any other appropriations
14 Act for any fiscal year, transfer authority referenced in
15 the report of the Committee on Appropriations accom-
16 panying this Act, or any authority whereby a department,
17 agency, or instrumentality of the United States Govern-
18 ment may provide goods or services to another depart-
19 ment, agency, or instrumentality.

20 (b) None of the funds made available for any depart-
21 ment, agency, or instrumentality of the United States
22 Government may be transferred to accounts funded in title
23 III of this Act, except pursuant to a transfer made by or
24 transfer authority provided in this Act or any other appro-
25 priations Act for any fiscal year, transfer authority ref-

1 erenced in the report of the Committee on Appropriations
2 accompanying this Act, or any authority whereby a de-
3 partment, agency, or instrumentality of the United States
4 Government may provide goods or services to another de-
5 partment, agency, or instrumentality.

6 (c) The head of any relevant department or agency
7 funded in this Act utilizing any transfer authority shall
8 submit to the Committees on Appropriations of both
9 Houses of Congress a semiannual report detailing the
10 transfer authorities, except for any authority whereby a
11 department, agency, or instrumentality of the United
12 States Government may provide goods or services to an-
13 other department, agency, or instrumentality, used in the
14 previous 6 months and in the year-to-date. This report
15 shall include the amounts transferred and the purposes
16 for which they were transferred, and shall not replace or
17 modify existing notification requirements for each author-
18 ity.

19 This Act may be cited as the “Energy and Water De-
20 velopment and Related Agencies Appropriations Act,
21 2017”.

Calendar No. 420

114TH CONGRESS
2^D SESSION

S. 2804

[Report No. 114-236]

A BILL

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2017, and for other purposes.

APRIL 14, 2016

Read twice and placed on the calendar