

Calendar No. 876

110TH CONGRESS
2D SESSION**S. 3258****[Report No. 110–416]**

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2009, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 14, 2008

Mr. DORGAN, 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, 2009, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated, for the
5 fiscal year ending September 30, 2009, for energy and
6 water development and for other purposes, 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 rivers
9 and harbors, flood and storm damage reduction, shore
10 protection, aquatic ecosystem restoration, and related pur-
11 poses.

12 GENERAL INVESTIGATIONS

13 For expenses necessary where authorized by law for
14 the collection and study of basic information pertaining
15 to river and harbor, flood and storm damage reduction,
16 shore protection, aquatic ecosystem restoration, and re-
17 lated needs; for surveys and detailed studies, and plans
18 and specifications of proposed river and harbor, flood and
19 storm damage reduction, shore protection, and aquatic
20 ecosystem restoration projects and related efforts prior to
21 construction; for restudy of authorized projects owned or
22 operated by the Corps; and for miscellaneous investiga-
23 tions and, when authorized by law, surveys and detailed
24 studies, and plans and specifications of projects prior to
25 construction, \$166,000,000, to remain available until ex-
26 pended: *Provided*, That notwithstanding the provisions of

1 section 101 of this Act, the amounts made available under
 2 this paragraph shall be expended as authorized in law for
 3 the projects and activities specified in the report and direc-
 4 tion specified in the text accompanying this Act.

5 CONSTRUCTION, GENERAL

6 For expenses necessary for the construction of river
 7 and harbor, flood and storm damage reduction, shore pro-
 8 tection, aquatic ecosystem restoration, and related
 9 projects authorized by law, including a portion of the ex-
 10 penses for the modifications authorized by section 104 of
 11 the Everglades National Park Protection and Expansion
 12 Act of 1989; for conducting detailed studies, and plans
 13 and specifications, of such projects (including those involv-
 14 ing participation by States, local governments, or private
 15 groups) authorized or made eligible for selection by law
 16 (but such detailed studies, and plans and specifications,
 17 shall not constitute a commitment of the Government to
 18 construction); \$2,004,500,000, to remain available until
 19 expended; of which such sums as are necessary to cover
 20 the Federal share of construction costs for facilities under
 21 the Dredged Material Disposal Facilities program shall be
 22 derived from the Harbor Maintenance Trust Fund as au-
 23 thorized by Public Law 104–303; and of which such sums
 24 as are necessary pursuant to Public Law 99–662 shall be
 25 derived from the Inland Waterways Trust Fund, to cover
 26 one-half of the costs of construction, replacement, rehabili-

1 tation, and expansion of inland waterways projects (in-
2 cluding only Chickamauga Lock, Tennessee; Kentucky
3 Lock and Dam, Tennessee River, Kentucky; Lock and
4 Dams 2, 3, and 4 Monongahela River, Pennsylvania;
5 Marmet Lock and Dam, West Virginia; McAlpine Lock
6 and Dam, Kentucky and Indiana; Olmsted Lock and Dam,
7 Illinois and Kentucky; Gray's Landing Lock and Dam,
8 Pennsylvania; R.C. Byrd Lock and Dam, Ohio and West
9 Virginia; and Point Marion Lock and Dam, Pennsylvania)
10 shall be derived from the Inland Waterways Trust Fund;
11 and of which \$8,000,000 shall be exclusively for projects
12 and activities authorized under section 107 of the River
13 and Harbor Act of 1960; and of which \$10,000,000 shall
14 be exclusively for projects and activities authorized under
15 section 111 of the River and Harbor Act of 1968; and
16 of which \$7,500,000 shall be exclusively for projects and
17 activities authorized under section 103 of the River and
18 Harbor Act of 1962; and of which \$43,123,000 shall be
19 exclusively for projects and activities authorized under sec-
20 tion 205 of the Flood Control Act of 1948; and of which
21 \$10,000,000 shall be exclusively for projects and activities
22 authorized under section 14 of the Flood Control Act of
23 1946; and of which \$500,000 shall be exclusively for
24 projects and activities authorized under section 208 of the
25 Flood Control Act of 1954; and of which \$25,000,000

1 shall be exclusively for projects and activities authorized
2 under section 1135 of the Water Resources Development
3 Act of 1986; and of which \$25,000,000 shall be exclusively
4 for projects and activities authorized under section 206
5 of the Water Resources Development Act of 1996; and of
6 which \$7,187,000 shall be exclusively for projects and ac-
7 tivities authorized under sections 204 and 207 of the
8 Water Resources Development Act of 1992 and section
9 933 of the Water Resources Development Act of 1986:
10 *Provided*, That the Chief of Engineers is directed to use
11 \$13,000,000 of the funds appropriated herein for the Dal-
12 las Floodway Extension, Texas, project, including the
13 Cadillac Heights feature, generally in accordance with the
14 Chief of Engineers report dated December 7, 1999: *Pro-*
15 *vided further*, That the Chief of Engineers is directed to
16 use \$8,000,000 of the funds appropriated herein for plan-
17 ning, engineering, design or construction of the Grundy,
18 Buchanan County, and Dickenson County, Virginia, ele-
19 ments of the Levisa and Tug Forks of the Big Sandy
20 River and Upper Cumberland River Project: *Provided fur-*
21 *ther*, That the Chief of Engineers is directed to use
22 \$8,500,000 of the funds appropriated herein to continue
23 planning, engineering, design or construction of the Lower
24 Mingo County, Upper Mingo County, Wayne County,
25 McDowell County, West Virginia, elements of the Levisa

1 and Tug Forks of the Big Sandy River and Upper Cum-
2 berland River Project: *Provided further*, That the Chief of
3 Engineers is directed to use \$17,048,000 of the funds pro-
4 vided herein for planning and design and construction of
5 a rural health care facility on the Fort Berthold Reserva-
6 tion of the Three Affiliated Tribes, North Dakota: *Pro-*
7 *vided further*, That notwithstanding the provisions of sec-
8 tion 101 of this Act, the amounts made available under
9 this paragraph shall be expended as authorized in law for
10 the projects and activities specified in the report and direc-
11 tion specified in the text accompanying this Act.

12 MISSISSIPPI RIVER AND TRIBUTARIES

13 For expenses necessary for flood damage reduction
14 projects and related efforts in the Mississippi River allu-
15 vial valley below Cape Girardeau, Missouri, as authorized
16 by law, \$365,000,000, to remain available until expended,
17 of which such sums as are necessary to cover the Federal
18 share of eligible operation and maintenance costs for in-
19 land harbors shall be derived from the Harbor Mainte-
20 nance Trust Fund: *Provided*, That the Chief of Engineers
21 is directed to use \$5,000,000 of the funds provided herein
22 for design and real estate activities and pump supply ele-
23 ments for the Yazoo Basin, Yazoo Backwater Pumping
24 Plant, Mississippi: *Provided further*, That the Secretary of
25 the Army, acting through the Chief of Engineers is di-
26 rected to use \$9,000,000 appropriated herein for construc-

tion of water withdrawal features of the Grand Prairie,
Arkansas, project: *Provided further*, That, except as pro-
vided in section 101 of this Act exclusively for Mississippi
River and Tributaries operation and maintenance, the
amounts made available under this paragraph shall be ex-
pended as authorized in law for the projects and activities
specified in the report and direction specified in the text
accompanying this Act.

OPERATION AND MAINTENANCE

For expenses necessary for the operation, mainte-
nance, 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, or on behalf of,
the United States Army Corps of Engineers (the
“Corps”), including administrative buildings and facilities,
and laboratories, and the Washington Aqueduct; for the
maintenance of; maintaining harbor channels provided by
a State, municipality, or other public agency that serve
essential navigation needs of general commerce, where au-
thorized by law; surveying and charting northern and
northwestern lakes and connecting waters; clearing and
straightening channels; and removing obstructions to navi-
gation, \$2,220,000,000, to remain available until ex-
pended, of which such sums as are necessary to cover the
Federal share of operation and maintenance costs for

1 coastal harbors and channels, and for inland harbors shall
2 be derived from the Harbor Maintenance Trust Fund,
3 pursuant to Public Law 99–662 may be derived from that
4 fund; of which such sums as become available from the
5 special account for the Corps established by the Land and
6 Water Conservation Act of 1965, as amended (16 U.S.C.
7 460l–6a(i)), shall be derived from that account for re-
8 source protection, research, interpretation, and mainte-
9 nance activities related to resource protection in the areas
10 at which outdoor recreation is available; and of which such
11 sums as become available from fees collected under section
12 217 of the Water Resources Development Act of 1996,
13 Public Law 104–303, shall be used to cover the cost of
14 operation and maintenance of the dredged material dis-
15 posal facilities for which such fees have been collected:
16 *Provided*, That, except as provided in section 101 of this
17 Act, the amounts made available under this paragraph
18 shall be expended as authorized in law for the projects
19 and activities specified in the report accompanying this
20 Act: *Provided further*, That of the amounts provided here-
21 in, not to exceed \$500,000 is provided to the Secretary
22 of the Army to reimburse travel expenses as provided for
23 in section 9003(f) of the Water Resources Development
24 Act of 2007, Public Law 110–114 (121 Stat. 1289–1290).

1 REGULATORY PROGRAM

2 For expenses necessary for administration of laws
3 pertaining to regulation of navigable waters and wetlands,
4 \$183,000,000, to remain available until expended: *Pro-*
5 *vided*, That the Secretary of the Army, acting through the
6 Chief of Engineers, may use up to \$3,200,000 of the funds
7 appropriated herein to reimburse the Port of Arlington,
8 Gillam County, Oregon, for those direct construction costs
9 determined by the Secretary to have been incurred by the
10 Port as a result of and following issuance of the Depart-
11 ment of the Army Regulatory Program permit for the con-
12 struction of a commercial dock and offload facility at the
13 Port in February 2007, including the removal of the com-
14 mercial dock and offload facility.

15 FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

16 For expenses necessary to clean up contamination
17 from sites in the United States resulting from work per-
18 formed as part of the Nation's early atomic energy pro-
19 gram, \$140,000,000, to remain available until expended.

20 FLOOD CONTROL AND COASTAL EMERGENCIES

21 For expenses necessary to prepare for flood, hurri-
22 cane, and other natural disasters and support emergency
23 operations, repairs, and other activities in response to
24 such disasters as authorized by law, \$40,000,000, to re-
25 main available until expended.

GENERAL EXPENSES

For expenses necessary for the supervision and general administration of the civil works program in the headquarters of the United States Army Corps of Engineers, and the offices of the Division Engineers; and for the 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 Center, \$177,000,000, to remain available until expended, 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.

OFFICE OF ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

For the Office of the Assistant Secretary of the Army (Civil Works), \$4,500,000, to remain available until expended.

ADMINISTRATIVE PROVISION

The Revolving Fund, Corps of Engineers, shall be available during the current fiscal year for purchase (not

1 to exceed 100 for replacement only) and hire of passenger
2 motor vehicles for the civil works program.

3 GENERAL PROVISIONS, CORPS OF ENGINEERS—CIVIL

4 SEC. 101. None of the funds provided in title I of
5 this Act, or provided by previous appropriations Acts to
6 the agencies or entities funded in title I of this Act that
7 remain available for obligation or expenditure in fiscal
8 year 2009, shall be available for obligation or expenditure
9 through a reprogramming of funds that:

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

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

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

18 (4) proposes to use funds directed for a specific
19 program, project, or activity by either the House or
20 the Senate Committees on Appropriations for a dif-
21 ferent purpose, unless prior approval is received
22 from the House and Senate Committees on Appro-
23 priations;

24 (5) augments or reduces existing programs,
25 projects, or activities in excess of the amounts con-
26 tained in subsections 6 through 8, unless prior ap-

1 proval is received from the House and Senate Com-
 2 mittees on Appropriations;

3 (6) OPERATION AND MAINTENANCE.—For a
 4 base level of \$1,000,000, reprogramming of 15 per-
 5 cent of the base amount up to a limit of \$5,000,000
 6 per project or activity is allowed: *Provided*, That for
 7 a base level less than \$1,000,000, the reprogram-
 8 ming limit is \$150,000: *Provided further*, That
 9 \$150,000 may be reprogrammed into any ongoing
 10 work on a project that did not receive an appropria-
 11 tion: *Provided further*, That unlimited reprogram-
 12 ming authority is granted to respond to a flood, hur-
 13 ricane, or other natural disaster or to address any
 14 imminent risk to the public health and safety from
 15 a civil works project owned or operated by the
 16 Corps;

17 (7) MISSISSIPPI RIVER AND TRIBUTARIES.—
 18 The same reprogramming guidelines as listed above
 19 apply to the Operation and Maintenance portion of
 20 the Mississippi River and Tributaries Account; and

21 (8) FORMERLY UTILIZED SITES REMEDIAL AC-
 22 TION PROGRAM.—Reprogramming of up to 15 per-
 23 cent of the base of the receiving project is permitted.

24 SEC. 102. None of the funds in this Act, or previous
 25 Acts, making funds available for Energy and Water Devel-

1 opment, shall be used to implement any pending or future
2 competitive sourcing actions under OMB Circular A-76
3 or High Performing Organizations for the U.S. Army
4 Corps of Engineers.

5 SEC. 103. None of the funds appropriated in this or
6 any other Act shall be used to demonstrate or implement
7 any plans divesting or transferring any Civil Works mis-
8 sions, functions, or responsibilities of the United States
9 Army Corps of Engineers to other government agencies
10 without specific direction in a subsequent Act of Congress.

11 SEC. 104. Within 90 days of the date of the Chief
12 of Engineers Report on a water resource matter, the As-
13 sistant Secretary of the Army (Civil Works) shall submit
14 the report to the appropriate authorizing and appro-
15 priating committees of the Congress.

16 SEC. 105. WATER REALLOCATION, LAKE CUM-
17 BERLAND, KENTUCKY. (a) IN GENERAL.—Subject to sub-
18 section (b), none of the funds made available by this Act
19 may be used to carry out any water reallocation project
20 or component under the Wolf Creek Project, Lake Cum-
21 berland, Kentucky, authorized under the Act of June 28,
22 1938 (52 Stat. 1215, ch. 795) and the Act of July 24,
23 1946 (60 Stat. 636, ch. 595).

24 (b) EXISTING REALLOCATIONS.—Subsection (a) shall
25 not apply to any water reallocation for Lake Cumberland,

1 Kentucky, that is carried out subject to an agreement or
2 payment schedule in effect on the date of enactment of
3 this Act.

4 SEC. 106. Section 121 of the Energy and Water De-
5 velopment Appropriations Act, 2006 (Public Law 109–
6 103; 119 Stat. 2256) is amended by striking subsection
7 (a) and inserting the following:

8 “(a) Hereafter, the Secretary of the Army may carry
9 out and fund planning studies, watershed surveys and as-
10 sessments, or technical studies at 100 percent Federal ex-
11 pense to accomplish the purposes of the 2003 Biological
12 Opinion described in section 205(b) of the Energy and
13 Water Development Appropriations Act, 2005 (Public
14 Law 108–447; 118 Stat. 2949) as amended by subsection
15 (b) or any related subsequent biological opinion, and the
16 collaborative program long-term plan. In carrying out a
17 study, survey, or assessment under this subsection, the
18 Secretary of the Army shall consult with Federal, State,
19 tribal and local governmental entities, as well as entities
20 participating in the Middle Rio Grande Endangered Spe-
21 cies Collaborative Program referred to in section 205 of
22 this Act: *Provided*, That the Secretary of the Army may
23 also provide planning and administrative assistance to the
24 Middle Rio Grande Endangered Species Collaborative Pro-

1 gram, which shall not be subject to cost sharing require-
2 ments with non-Federal interests.”.

3 SEC. 107. All budget documents and justification ma-
4 terials for the Corps of Engineers annual budget submis-
5 sion to Congress shall be assembled and presented based
6 on the most recent annual appropriations Act: *Provided*,
7 That new budget proposals for fiscal year 2009 and there-
8 after, shall not be integrated into the budget justifications
9 submitted to Congress but shall be submitted separately
10 from the budget justifications documents.

11 SEC. 108. The Secretary is authorized to conduct a
12 study of the Missouri River Projects located within the
13 Missouri River basin at a total cost of \$25,000,000 with
14 the express purpose to review the original project purposes
15 based on the Flood Control Act of 1944, as amended, and
16 other subsequent relevant legislation and judicial rulings
17 to determine if changes to the authorized project purposes
18 and existing Federal water resource infrastructure may be
19 warranted: *Provided*, That this study shall be undertaken
20 at full Federal expense.

21 SEC. 109. There is authorized to be appropriated an
22 additional \$5,000,000 for the construction of the perma-
23 nent bridge authorized in section 128(a) of Public Law
24 108–137.

1 SEC. 110. Section 101(a)(5) of the Water Resources
2 Development Act of 1996 (110 Stat. 3663) is amended—

3 (1) by inserting “(A) IN GENERAL.—” before
4 “The”; and

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

6 “(B) CREDIT TOWARD NON-FEDERAL
7 SHARE.—The Secretary shall credit toward the
8 non-Federal share of the project the costs ex-
9 pended by non-Federal interests for the replace-
10 ment and reconstruction of the Soquel Avenue
11 Bridge, if the Secretary determines that the
12 work is integral to the project.

13 “(C) MAXIMUM AMOUNT OF CREDIT.—The
14 credit under paragraph (B) may not exceed
15 \$2,000,000.

16 “(D) LIMITATION OF TOTAL PROJECT
17 COST.—The Secretary shall not include the
18 costs to be credited under paragraphs (B) and
19 (C) in total project costs in determining the
20 amounts of the Federal and non-Federal con-
21 tributions.”.

22 SEC. 111. The Missouri River Levee System (MRLS)
23 Unit L-385 Project, Riverside, Missouri, authorized by
24 the Flood Control Act of 1941, Public Law 77-228, and
25 the Flood Control Act of 1944, Public Law 78-534, is

1 modified to direct the Secretary, acting through the Chief
2 of Engineers, to take such action as is necessary to correct
3 deficiencies in the L-385 levee system in Riverside, Mis-
4 souri at full Federal expense at a cost of no more than
5 \$7,000,000.

6 SEC. 112. (a) Using funds appropriated in this Act
7 and hereafter, the Secretary is directed to complete the
8 selection for any Senior Executive Service position within
9 the United States Army Corps of Engineers that is vacant
10 as of the date of enactment of this Act no later than 90
11 days after the effective date of this section.

12 (b) Using funds appropriated in this Act and here-
13 after, the Secretary shall complete the selection for any
14 vacancy in a Senior Executive Service position within the
15 United States Army Corps of Engineers that occurs after
16 the date of enactment of this Act no later than 90 days
17 after the vacancy occurs.

18 (c) If the Secretary cannot complete any selection
19 within the time period required by subsections (a) and (b)
20 of this section, the Secretary shall report to the Commit-
21 tees on Appropriations of the Senate and the House of
22 Representatives on the reasons the selection could not be
23 made within the required time period. Any such report
24 shall be submitted to the Committees no later than 30
25 days after the date upon which the selection should have

1 been completed, and the Secretary shall submit additional
2 reports every 30 days thereafter until the selection is
3 made.

4 (d) None of the funds appropriated in this Act or any
5 other Act heretofore or hereinafter enacted may be used
6 to reduce the total number of positions designated as Sen-
7 ior Executive Service positions within the United States
8 Army Corps of Engineers below 44.

9 SEC. 113. Section 115 of the Energy and Water De-
10 velopment and Related Agencies Appropriations Act, 2008
11 as contained in division C of Public Law 110–161, is
12 amended by striking “\$20,000,000. The Secretary shall
13 transfer this facility to the Secretary of the Interior for
14 operation and maintenance upon the completion of con-
15 struction.” and inserting in lieu thereof, “\$20,000,000:
16 *Provided*, That the Secretary shall transfer ownership of
17 this facility to the Secretary of Health and Human Serv-
18 ices for operation and maintenance upon the completion
19 of construction.”.

20 SEC. 114. None of the funds in this Act, or previous
21 Acts, making funds available for Energy and Water Devel-
22 opment shall be used to award any continuing contract
23 that commits additional funding from the Inland Water-
24 way Trust Fund unless or until such time that a perma-
25 nent solution to enhance revenues in the fund is enacted.

1 SEC. 115. Section 103(c)(7) of the Water Resources
 2 Development Act of 1992 (106 Stat. 4811–12), as amend-
 3 ed by section 117 of the Energy and Water Development
 4 Appropriations Act of 2006 (119 Stat. 2255), is further
 5 amended by striking “15,000,000” and inserting
 6 “26,000,000”.

7 SEC. 116. Section 3118 of Public Law 110–114 (121
 8 Stat. 1137) is amended by—

9 (1) in paragraph (b) by inserting after “New
 10 Mexico” the following: “in accordance with the plans
 11 recommended in the feasibility report for the Middle
 12 Rio Grande Bosque, New Mexico, scheduled for com-
 13 pletion in December 2008”.

14 (2) redesignating subsection (d) as subsection
 15 (e); and

16 (3) inserting a new subsection (d):

17 “(d) COST SHARING.—Any requirement for non-Fed-
 18 eral participation in a project carried out in the bosque
 19 of Bernalillo County, New Mexico, pursuant to this section
 20 shall be limited to the provision of lands, easements,
 21 rights-of-way, relocations, and dredged material disposal
 22 areas necessary for construction, operation and mainte-
 23 nance of the project.”.

24 SEC. 117. The non-Federal interest for the project
 25 referenced in section 3154 of the Water Resources Devel-

1 opment Act of 2007 (Public Law 110–114; 121 Stat.
2 1148) may carry out design and construction work on the
3 project in advance of Federal appropriations or may pro-
4 vide funds directly to the Secretary for the Secretary to
5 carry out such work. The Secretary of the Army shall re-
6 imburse the non-Federal interest for any costs incurred
7 by the non-Federal interest that are in excess of the non-
8 Federal share of total project costs.

9 SEC. 118. (a) The non-Federal interest for the
10 project for hurricane and storm damage reduction,
11 Morganza to the Gulf of Mexico, Louisiana, authorized by
12 section 1001(24) of the Water Resources Development Act
13 of 2007 (Public Law 110–114; 121 Stat. 1053) may,
14 using its own funds, construct the Houma Navigation
15 Canal lock complex feature of the project.

16 (b) Costs incurred by the non-Federal interest pursu-
17 ant to subsection (a) of this section may be credited
18 against the non-Federal share of the project or reimbursed
19 at the Secretary of the Army’s discretion, subject to initi-
20 ation of the construction of the project by the Federal
21 Government and subject to a determination by the Sec-
22 retary of the Army that the work completed by the non-
23 Federal interest pursuant to subsection (a) is an integral
24 part of the project.

1 SEC. 119. The Colorado Department of Natural Re-
2 sources is authorized to perform modifications of the facil-
3 ity (Chatfield Reservoir, Colorado), and any required miti-
4 gation which results from implementation of the project:
5 *Provided*, That in carrying out the reassignment of storage
6 space provided for in this section, the Secretary shall col-
7 laborate with the Colorado Department of Natural Re-
8 sources and local interests to determine costs to be repaid
9 for storage that reflects the limited reliability of the re-
10 sources and the capability of non-Federal interests to
11 make use of the reallocated storage space in Chatfield Res-
12 ervoir, Colorado.

13 SEC. 120. The project for flood control, Big Sioux
14 River and Skunk Creek, Sioux Falls, South Dakota au-
15 thorized by section 101(a)(28) of the Water Resources De-
16 velopment Act of 1996 (110 Stat. 3666), is modified to
17 authorize the Secretary to construct the project at an esti-
18 mated total cost of \$51,000,000, with an estimated Fed-
19 eral cost of \$38,250,000 and an estimated non-Federal
20 cost of \$12,750,000.

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, \$40,360,000, to remain
7 available until expended, of which \$987,000 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.

11 For fiscal year 2009, the Commission may use an
12 amount not to exceed \$1,500,000 for administrative ex-
13 penses.

14 In addition, for necessary expenses incurred in car-
15 rying out related responsibilities of the Secretary of the
16 Interior, \$1,640,000, to remain available until expended.

17 BUREAU OF RECLAMATION

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

21 WATER AND RELATED RESOURCES

22 (INCLUDING TRANSFERS OF FUNDS)

23 For management, development, and restoration of
24 water and related natural resources and for related activi-
25 ties, including the operation, maintenance, and rehabilita-
26 tion of reclamation and other facilities, participation in

1 fulfilling related Federal responsibilities to Native Ameri-
 2 cans, and related grants to, and cooperative and other
 3 agreements with, State and local governments, federally
 4 recognized Indian tribes, and others, \$927,320,000, to re-
 5 main available until expended, of which \$46,655,000 shall
 6 be available for transfer to the Upper Colorado River
 7 Basin Fund and \$27,951,000 shall be available for trans-
 8 fer to the Lower Colorado River Basin Development Fund;
 9 of which such amounts as may be necessary may be ad-
 10 vanced to the Colorado River Dam Fund; of which not
 11 more than \$500,000 is for high priority projects which
 12 shall be carried out by the Youth Conservation Corps, as
 13 authorized by 16 U.S.C. 1706: *Provided*, That such trans-
 14 fers may be increased or decreased within the overall ap-
 15 propriation under this heading: *Provided further*, That of
 16 the total appropriated, the amount for program activities
 17 that can be financed by the Reclamation Fund or the Bu-
 18 reau of Reclamation special fee account established by 16
 19 U.S.C. 460l-6a(i) shall be derived from that Fund or ac-
 20 count: *Provided further*, That funds contributed under 43
 21 U.S.C. 395 are available until expended for the purposes
 22 for which contributed: *Provided further*, That funds ad-
 23 vanced under 43 U.S.C. 397a shall be credited to this ac-
 24 count and are available until expended for the same pur-
 25 poses as the sums appropriated under this heading: *Pro-*

1 *vided further*, That funds available for expenditure for the
 2 Departmental Irrigation Drainage Program may be ex-
 3 pended by the Bureau of Reclamation for site remediation
 4 on a nonreimbursable basis: *Provided further*, That funds
 5 provided for the Friant-Kern and Madera Canals improve-
 6 ments may be expended on a non-reimbursable basis.

7 CENTRAL VALLEY PROJECT RESTORATION FUND

8 For carrying out the programs, projects, plans, habi-
 9 tat restoration, improvement, and acquisition provisions of
 10 the Central Valley Project Improvement Act, \$56,079,000,
 11 to be derived from such sums as may be collected in the
 12 Central Valley Project Restoration Fund pursuant to sec-
 13 tions 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of
 14 Public Law 102–575, to remain available until expended:
 15 *Provided*, That the Bureau of Reclamation is directed to
 16 assess and collect the full amount of the additional mitiga-
 17 tion and restoration payments authorized by section
 18 3407(d) of Public Law 102–575: *Provided further*, That
 19 none of the funds made available under this heading may
 20 be used for the acquisition or leasing of water for in-
 21 stream purposes if the water is already committed to in-
 22 stream purposes by a court adopted decree or order.

23 CALIFORNIA BAY-DELTA RESTORATION

24 (INCLUDING TRANSFER OF FUNDS)

25 For carrying out activities authorized by the Water
 26 Supply, Reliability, and Environmental Improvement Act,

1 consistent with plans to be approved by the Secretary of
2 the Interior, \$42,000,000, to remain available until ex-
3 pended, of which such amounts as may be necessary to
4 carry out such activities may be transferred to appropriate
5 accounts of other participating Federal agencies to carry
6 out authorized purposes: *Provided*, That funds appro-
7 priated herein may be used for the Federal share of the
8 costs of CALFED Program management: *Provided fur-*
9 *ther*, That the use of any funds provided to the California
10 Bay-Delta Authority for program-wide management and
11 oversight activities shall be subject to the approval of the
12 Secretary of the Interior: *Provided further*, That CALFED
13 implementation shall be carried out in a balanced manner
14 with clear performance measures demonstrating concur-
15 rent progress in achieving the goals and objectives of the
16 Program.

17 POLICY AND ADMINISTRATION

18 For necessary expenses of policy, administration, and
19 related functions in the office of the Commissioner, the
20 Denver office, and offices in the five regions of the Bureau
21 of Reclamation, to remain available until expended,
22 \$59,400,000, to be derived from the Reclamation Fund
23 and be nonreimbursable as provided in 43 U.S.C. 377:
24 *Provided*, That no part of any other appropriation in this
25 Act shall be available for activities or functions budgeted
26 as policy and administration expenses.

1 ADMINISTRATIVE PROVISIONS

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

5 GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

6 SEC. 201. (a) None of the funds appropriated or oth-
7 erwise made available by this Act may be used to deter-
8 mine the final point of discharge for the interceptor drain
9 for the San Luis Unit until development by the Secretary
10 of the Interior and the State of California of a plan, which
11 shall conform to the water quality standards of the State
12 of California as approved by the Administrator of the En-
13 vironmental Protection Agency, to minimize any detri-
14 mental effect of the San Luis drainage waters.

15 (b) The costs of the Kesterson Reservoir Cleanup
16 Program and the costs of the San Joaquin Valley Drain-
17 age Program shall be classified by the Secretary of the
18 Interior as reimbursable or nonreimbursable and collected
19 until fully repaid pursuant to the “Cleanup Program-Al-
20 ternative Repayment Plan” and the “SJVDP-Alternative
21 Repayment Plan” described in the report entitled “Repay-
22 ment Report, Kesterson Reservoir Cleanup Program and
23 San Joaquin Valley Drainage Program, February 1995”,
24 prepared by the Department of the Interior, Bureau of
25 Reclamation. Any future obligations of funds by the

1 United States relating to, or providing for, drainage serv-
2 ice or drainage studies for the San Luis Unit shall be fully
3 reimbursable by San Luis Unit beneficiaries of such serv-
4 ice or studies pursuant to Federal reclamation law.

5 SEC. 202. None of the funds appropriated or other-
6 wise made available by this or any other Act may be used
7 to pay the salaries and expenses of personnel to purchase
8 or lease water in the Middle Rio Grande or the Carlsbad
9 Projects in New Mexico unless said purchase or lease is
10 in compliance with the purchase requirements of section
11 202 of Public Law 106–60.

12 SEC. 203. Funds under this title for Drought Emer-
13 gency Assistance shall be made available primarily for
14 leasing of water for specified drought related purposes
15 from willing lessors, in compliance with existing State laws
16 and administered under State water priority allocation.

17 SEC. 204. The Secretary of the Interior, acting
18 through the Commissioner of the Bureau of Reclamation,
19 is authorized to enter into grants, cooperative agreements,
20 and other agreements with irrigation or water districts
21 and States to fund up to 50 percent of the cost of plan-
22 ning, designing, and constructing improvements that will
23 conserve water, increase water use efficiency, or enhance
24 water management through measurement or automation,
25 at existing water supply projects within the States identi-

1 fied in the Act of June 17, 1902, as amended, and supple-
 2 mented: *Provided*, That when such improvements are to
 3 federally owned facilities, such funds may be provided in
 4 advance on a nonreimbursable basis to an entity operating
 5 affected transferred works or may be deemed non-
 6 reimbursable for nontransferred works: *Provided further*,
 7 That the calculation of the non-Federal contribution shall
 8 provide for consideration of the value of any in-kind con-
 9 tributions, but shall not include funds received from other
 10 Federal agencies: *Provided further*, That the cost of oper-
 11 ating and maintaining such improvements shall be the re-
 12 sponsibility of the non-Federal entity: *Provided further*,
 13 That this section shall not supercede any existing project-
 14 specific funding authority: *Provided further*, That the Sec-
 15 retary is also authorized to enter into grants or coopera-
 16 tive agreements with universities or nonprofit research in-
 17 stitutions to fund water use efficiency research.

18 SEC. 205. (a) Section 209 of the Energy and Water
 19 Development Appropriations Act, 2004 (Public Law 108–
 20 137; 117 Stat. 1850) is repealed.

21 (b) The Secretary of the Interior (referred to in this
 22 section as the “Secretary”) shall establish and maintain
 23 an Executive Committee of the Middle Rio Grande Endan-
 24 gered Species Collaborative Program (referred to in this
 25 section as the “Executive Committee”) consistent with the

1 bylaws of the Middle Rio Grande Endangered Species Col-
2 laborative Program adopted on October 2, 2006.

3 (c) Hereafter, in compliance with applicable Federal
4 and State laws, the Secretary (acting through the Com-
5 missioner of Reclamation), in collaboration with the Exec-
6 utive Committee, may enter into any grants, contracts, co-
7 operative agreements, interagency agreements, or other
8 agreements that the Secretary determines to be necessary
9 to comply with the 2003 Biological Opinion described in
10 section 205(b) of the Energy and Water Development Ap-
11 propriations Act, 2005 (Public Law 108–447; 118 Stat.
12 2949) as amended by section 121(b) of the Energy and
13 Water Development Appropriations Act, 2006 (Public
14 Law 109–103; 119 Stat. 2256) or any related subsequent
15 biological opinion or in furtherance of the objectives set
16 forth in the collaborative program long-term plan.

17 (d)(1) The acquisition of water under subsection (c)
18 and any administrative costs associated with carrying out
19 subsection (c) shall be at full Federal expense.

20 (2) Not more than 15 percent of amounts appro-
21 priated to carry out subsection (c) shall be made available
22 for the payment of administrative expenses associated with
23 carrying out that subsection.

24 (e)(1) The non-Federal share of activities carried out
25 under subsection (c) (other than an activity or a cost de-

1 scribed in subsection (d)(1)) shall be 25 percent. The non-
2 Federal cost share shall be determined on a programmatic,
3 rather than a project-by-project basis.

4 (2) The non-Federal share required under paragraph
5 (1) may be in the form of in-kind contributions, the value
6 of which shall be determined by the Secretary in consulta-
7 tion with the executive committee.

8 (f) Nothing in this section modifies or expands the
9 discretion of the Secretary with respect to operating res-
10 ervoir facilities under the jurisdiction of the Secretary in
11 the Rio Grande Valley, New Mexico.

12 SEC. 206. In carrying out section 2507 of Public Law
13 107–171, as amended by section 2807 of Public Law 110–
14 234, the Secretary of the Interior, acting through the
15 Commissioner of Reclamation, shall use \$5,000,000 to
16 provide grants, to be divided equally, to the State of Ne-
17 vada and the State of California to implement the Truckee
18 River Settlement Act, Public Law 101–618.

19 SEC. 207. (a) Notwithstanding any other provision
20 of law, of amounts made available under section 2507 of
21 the Farm Security and Rural Investment Act of 2002 (43
22 U.S.C. 2211 note; Public Law 107–171), as amended by
23 section 2807 of Public Law 110–234, the Secretary of the
24 Interior acting through the Commissioner of Reclamation,

1 shall use \$4,000,000 for Silver Lake water transmission
2 improvements.

3 TITLE III

4 DEPARTMENT OF ENERGY

5 ENERGY PROGRAMS

6 ENERGY EFFICIENCY AND RENEWABLE ENERGY

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 energy
10 efficiency and renewable energy activities in carrying out
11 the purposes of the Department of Energy Organization
12 Act (42 U.S.C. 7101 et seq.), including the acquisition or
13 condemnation of any real property or any facility or for
14 plant or facility acquisition, construction, or expansion,
15 and the purchase of not to exceed two passenger vehicles
16 for replacement, \$1,928,259,000, to remain available until
17 expended: *Provided*, That of the amount appropriated in
18 this paragraph, \$124,150,000 shall be used for projects
19 specified in the table that appears under the heading
20 “Congressionally Directed Energy Efficiency and Renew-
21 able Energy Projects” in the report of the Committee on
22 Appropriations of the United States Senate to accompany
23 this Act.

1 ELECTRICITY DELIVERY AND ENERGY RELIABILITY

2 For Department of Energy expenses including the
 3 purchase, construction, and acquisition of plant and cap-
 4 ital equipment, and other expenses necessary for elec-
 5 tricity delivery and energy reliability activities in carrying
 6 out the purposes of the Department of Energy Organiza-
 7 tion Act (42 U.S.C. 7101 et seq.), including the acquisi-
 8 tion or condemnation of any real property or any facility
 9 or for plant or facility acquisition, construction, or expan-
 10 sion, \$166,900,000, to remain available until expended:
 11 *Provided*, That of the amount appropriated in this para-
 12 graph, \$12,900,000 shall be used for projects specified in
 13 the table that appears under the heading “Congressionally
 14 Directed Electricity Delivery and Energy Reliability
 15 Projects” in the report of the Committee on Appropria-
 16 tions of the United States Senate to accompany this Act.

17 NUCLEAR ENERGY

18 (INCLUDING TRANSFER OF FUNDS)

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

tion, construction, or expansion, and the purchase of not
 to exceed 29 passenger motor vehicles, including three new
 buses and 26 replacement vehicles, including one ambu-
 lance, \$803,000,000, to remain available until expended:
Provided, That of the amount appropriated in this para-
 graph, \$3,000,000 shall be used for projects specified in
 the table that appears under the heading “Congressionally
 Directed Nuclear Energy Projects” in the report of the
 Committee on Appropriations of the United States Senate
 to accompany this Act.

CLEAN COAL TECHNOLOGY

(TRANSFER OF FUNDS)

Of the funds made available under this heading for
 obligation in prior years, \$149,000,000 of uncommitted
 balances are transferred to Fossil Energy Research and
 Development to be used until expended: *Provided*, That
 funds made available in previous appropriations Acts shall
 be made available for any ongoing project regardless of
 the separate request for proposal under which the project
 was selected.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

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, includ-

1 ing defeasible and equitable interests in any real property
 2 or any facility or for plant or facility acquisition or expansion,
 3 sion, and for conducting inquiries, technological investigations
 4 tions and research concerning the extraction, processing,
 5 use, and disposal of mineral substances without objection-
 6 able social and environmental costs (30 U.S.C. 3, 1602,
 7 and 1603), \$876,730,000, to remain available until expended,
 8 of which \$149,000,000 shall be derived by transfer from “Clean Coal
 9 Technology”: *Provided*, That of the amounts provided, \$232,300,000
 10 is available for the Clean Coal Power Initiative Round III solicitation,
 11 pursuant to title IV of the Public Law 109–58: *Provided further*, That
 12 funds appropriated for prior solicitations under the Clean Coal
 13 Technology Program, Power Plant Improvement Initiative, Clean Coal
 14 Power Initiative, and *FutureGen*, but not required by the Department
 15 to meet its obligations on projects selected under such solicitations,
 16 may be utilized for the Clean Coal Power Initiative Round III solicitation
 17 under this Act in accordance with the requirements of this Act rather
 18 than the Acts under which the funds were appropriated: *Provided further*,
 19 That no Clean Coal Power Initiative project may be selected for which
 20 full funding is not available to provide for the total project: *Provided further*,
 21 That if a Clean Coal Power Initiative project selected after enactment
 22 of this legislation for ne-

1 gotiation under this or any other Act in any fiscal year,
2 is not awarded within 2 years from the date the applica-
3 tion was selected, negotiations shall cease and the Federal
4 funds committed to the application shall be retained by
5 the Department for future coal-related research, develop-
6 ment and demonstration projects, except that the time
7 limit may be extended at the Secretary's discretion for
8 matters outside the control of the applicant, or if the Sec-
9 retary determines that extension of the time limit is in
10 the public interest: *Provided further*, That the Secretary
11 may not delegate this responsibility for applications great-
12 er than \$10,000,000: *Provided further*, That financial as-
13 sistance for costs in excess of those estimated as of the
14 date of award of original Clean Coal Power Initiative fi-
15 nancial assistance may not be provided in excess of the
16 proportion of costs borne by the Government in the origi-
17 nal agreement and shall be limited to 25 percent of the
18 original financial assistance: *Provided further*, That at
19 least 50 percent cost-sharing shall be required in each
20 budget period of a project: *Provided further*, That in ac-
21 cordance with section 988(e) of Public Law 109-58, re-
22 payment of the DOE contribution to a project shall not
23 be a condition of making an award under this solicitation:
24 *Provided further*, That funds shall be expended in accord-
25 ance with the provisions governing the use of funds con-

1 tained under the heading “Clean Coal Technology” in 42
2 U.S.C. 5903d as well as those contained under the head-
3 ing “Clean Coal Technology” in prior appropriations: *Pro-*
4 *vided further*, That any technology selected under these
5 programs shall be considered a Clean Coal Technology,
6 and any project selected under these programs shall be
7 considered a Clean Coal Technology Project, for the pur-
8 poses of 42 U.S.C. 7651n, and chapters 51, 52, and 60
9 of title 40 of the Code of Federal Regulations: *Provided*
10 *further*, That no part of the sum herein made available
11 shall be used for the field testing of nuclear explosives in
12 the recovery of oil and gas: *Provided further*, That in this
13 Act and future Acts, up to 4 percent of program direction
14 funds available to the National Energy Technology Lab-
15 oratory may be used to support Department of Energy
16 activities not included in this Fossil Energy account: *Pro-*
17 *vided further*, That in this Act and future Acts, the sala-
18 ries for Federal employees performing research and devel-
19 opment activities at the National Energy Technology Lab-
20 oratory can continue to be funded from any appropriate
21 DOE program accounts: *Provided further*, That revenues
22 and other moneys received by or for the account of the
23 Department of Energy or otherwise generated by sale of
24 products in connection with projects of the Department
25 appropriated under the Fossil Energy Research and De-

1 velopment account may be retained by the Secretary of
 2 Energy, to be available until expended, and used only for
 3 plant construction, operation, costs, and payments to cost-
 4 sharing entities as provided in appropriate cost-sharing
 5 contracts or agreements: *Provided further*, That no funds
 6 appropriated for FutureGen under prior Acts shall be
 7 available to support projects under the Department of En-
 8 ergy's competitive, restructured FutureGen solicitation:
 9 *Provided further*, That of the amount appropriated in this
 10 paragraph, \$32,700,000 shall be used for projects speci-
 11 fied in the table that appears under the heading "Congres-
 12 sionally Directed Fossil Energy Projects" in the report of
 13 the Committee on Appropriations of the United States
 14 Senate to accompany this Act.

15 NAVAL PETROLEUM AND OIL SHALE RESERVES

16 For expenses necessary to carry out naval petroleum
 17 and oil shale reserve activities, including the hire of pas-
 18 senger motor vehicles, \$19,099,000, to remain available
 19 until expended: *Provided*, That, notwithstanding any other
 20 provision of law, unobligated funds remaining from prior
 21 years shall be available for all naval petroleum and oil
 22 shale reserve activities.

23 STRATEGIC PETROLEUM RESERVE

24 For necessary expenses for Strategic Petroleum Re-
 25 serve facility development and operations and program

1 management activities pursuant to the Energy Policy and
2 Conservation Act of 1975, as amended (42 U.S.C. 6201
3 et seq.), \$205,000,000, to remain available until expended,
4 of which \$31,507,000 shall be provided to initiate new site
5 expansion activities, beyond land acquisition, consistent
6 with the budget request.

7 NORTHEAST HOME HEATING OIL RESERVE

8 For necessary expenses for Northeast Home Heating
9 Oil Reserve storage, operation, and management activities
10 pursuant to the Energy Policy and Conservation Act,
11 \$9,800,000, to remain available until expended.

12 ENERGY INFORMATION ADMINISTRATION

13 For necessary expenses in carrying out the activities
14 of the Energy Information Administration, \$110,595,000,
15 to remain available until expended.

16 NON-DEFENSE ENVIRONMENTAL CLEANUP

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 non-de-
20 fense environmental cleanup activities in carrying out the
21 purposes of the Department of Energy Organization Act
22 (42 U.S.C. 7101 et seq.), including the acquisition or con-
23 demnation of any real property or any facility or for plant
24 or facility acquisition, construction, or expansion,
25 \$269,411,000, to remain available until expended: *Pro-*

1 *vided*, That \$12,500,000 is appropriated for environ-
 2 mental remediation activities associated with the Energy
 3 Technology and Engineering Center (ETEC) at the Santa
 4 Susana Field Laboratory (SSFL), subject to the following:
 5 (1) the Department shall use a portion of this funding
 6 to enter into an interagency agreement with the Environ-
 7 mental Protection Agency (EPA) regarding a comprehen-
 8 sive radioactive site characterization of Area IV of the
 9 SSFL and (2) the Department shall provide the amount
 10 required by EPA for the radioactive site characterization
 11 in fiscal year 2009 from within the available funds: *Pro-*
 12 *vided further*, That of the amount appropriated in this
 13 paragraph, \$3,000,000 shall be used for projects specified
 14 in the table that appears under the heading “Congressional
 15 Directed Non-Defense Environmental Cleanup
 16 Projects” in the report of the Committee on Appropriations
 17 of the United States Senate to accompany this Act.

18 URANIUM ENRICHMENT DECONTAMINATION AND
 19 DECOMMISSIONING FUND

20 For necessary expenses in carrying out uranium en-
 21 richment facility decontamination and decommissioning,
 22 remedial actions, and other activities of title II of the
 23 Atomic Energy Act of 1954, as amended, and title X, sub-
 24 title A, of the Energy Policy Act of 1992, \$515,333,000,

1 to be derived from the Fund, to remain available until ex-
2 pended.

3 SCIENCE

4 For Department of Energy expenses including the
5 purchase, construction and acquisition of plant and capital
6 equipment, and other expenses necessary for science ac-
7 tivities in carrying out the purposes of the Department
8 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
9 cluding the acquisition or condemnation of any real prop-
10 erty or facility or for plant or facility acquisition, construc-
11 tion, or expansion, and purchase of not to exceed 49 pas-
12 senger motor vehicles for replacement only, including one
13 law enforcement vehicle, one ambulance, and three buses,
14 \$4,640,469,000, to remain available until expended: *Pro-*
15 *vided*, That of the amount appropriated in this paragraph,
16 \$58,500,000 shall be used for projects specified in the
17 table that appears under the heading “Congressionally Di-
18 rected Science Projects” in the report of the Committee
19 on Appropriations of the United States Senate to accom-
20 pany this Act.

21 NUCLEAR WASTE DISPOSAL

22 For nuclear waste disposal activities to carry out the
23 purposes of the Nuclear Waste Policy Act of 1982, Public
24 Law 97–425, as amended (the “NWPA”), including the
25 acquisition of real property or facility construction or ex-

1 pansion, \$195,390,000, to remain available until ex-
2 pended, and to be derived from the Nuclear Waste Fund:
3 *Provided*, That of the funds made available in this Act
4 for Nuclear Waste Disposal, \$5,000,000 shall be provided
5 to the State of Nevada solely for expenditures, other than
6 salaries and expenses of State employees, to conduct sci-
7 entific oversight responsibilities and participate in licens-
8 ing activities pursuant to the Act: *Provided further*, That
9 notwithstanding the lack of a written agreement with the
10 State of Nevada under section 117(c) of the NWPA,
11 \$1,000,000 shall be provided to Nye County, Nevada, for
12 on-site oversight activities under section 117(d) of that
13 Act: *Provided further*, That \$9,000,000 shall be provided
14 to affected units of local government, as defined in the
15 NWPA, to conduct appropriate activities and participate
16 in licensing activities: *Provided further*, That of the
17 \$9,000,000 provided 7.5 percent of the funds provided
18 shall be made available to affected units of local govern-
19 ment in California with the balance made available to af-
20 fected units of local government in Nevada for distribution
21 as determined by the Nevada units of local government.
22 This funding shall be provided to affected units of local
23 government, as defined in the Act: *Provided further*, That
24 \$500,000 shall be provided to the Timbisha-Shoshone
25 Tribe solely for expenditures, other than salaries and ex-

1 penses of tribal employees, to conduct appropriate activi-
2 ties and participate in licensing activities under section
3 118(b) of the NWPA. The Committee requires the entities
4 to certify that within 90 days of the completion of each
5 Federal fiscal year, the Nevada Division of Emergency
6 Management and the Governor of the State of Nevada and
7 each of the affected units of local government shall provide
8 certification to the Department of Energy that all funds
9 expended from such payments have been expended for the
10 activities authorized by the Act and this Act: *Provided fur-*
11 *ther*, That notwithstanding the provisions of chapters 65
12 and 75 of title 31, United States Code, the Department
13 shall have no monitoring, auditing or other oversight
14 rights or responsibilities over amounts provided to affected
15 units of local government: *Provided further*, That the
16 funds for the State of Nevada shall be made available sole-
17 ly to the Nevada Division of Emergency Management by
18 direct payment and to units of local government by direct
19 payment: *Provided further*, That within 90 days of the
20 completion of each Federal fiscal year, the Nevada Divi-
21 sion of Emergency Management and the Governor of the
22 State of Nevada and each of the affected units of local
23 government shall provide certification to the Department
24 of Energy that all funds expended from such payments
25 have been expended for activities authorized by the NWPA

1 and this Act: *Provided further*, That failure to provide
2 such certification shall cause such entity to be prohibited
3 from any further funding provided for similar activities:
4 *Provided further*, That none of the funds herein appro-
5 priated may be: (1) used directly or indirectly to influence
6 legislative action, except for normal and recognized execu-
7 tive-legislative communications, on any matter pending be-
8 fore Congress or a State legislature or for lobbying activity
9 as provided in 18 U.S.C. 1913; (2) used for litigation ex-
10 penses; or (3) used to support multi-State efforts or other
11 coalition building activities inconsistent with the restric-
12 tions contained in this Act: *Provided further*, That all pro-
13 ceeds and recoveries realized by the Secretary in carrying
14 out activities authorized by the NWPA, including but not
15 limited to, any proceeds from the sale of assets, shall be
16 available without further appropriation and shall remain
17 available until expended: *Provided further*, That no funds
18 provided in this Act or any previous Act may be used to
19 pursue repayment or collection of funds provided in any
20 fiscal year to affected units of local government for over-
21 sight activities that had been previously approved by the
22 Department of Energy, or to withhold payment of any
23 such funds: *Provided further*, That of the amount appro-
24 priated in this paragraph, \$1,950,000 shall be used for
25 projects specified in the table that appears under the head-

1 ing “Congressionally Directed Nuclear Waste Disposal
2 Projects” in the report of the Committee on Appropria-
3 tions of the United States Senate to accompany this Act.

4 TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE
5 PROGRAM

6 Subject to section 502 of the Congressional Budget
7 Act of 1974, commitments to guarantee loans under title
8 XVII of the Energy Policy Act of 2005 shall not exceed
9 a total principal amount, any part of which is to be guar-
10 anteed, of \$20,000,000,000 for eligible projects (other
11 than nuclear power facilities), and commitments to guar-
12 antee loans under title XVII shall not exceed a total prin-
13 cipal amount, any part of which is to be guaranteed, of
14 \$18,500,000,000 for eligible nuclear power facilities: *Pro-*
15 *vided*, That these amounts are in addition to the authority
16 provided under section 20320 of division B of Public Law
17 109–289, as amended by Public Law 110–5: *Provided fur-*
18 *ther*, That such sums as are derived from amounts re-
19 ceived from borrowers pursuant to section 1702(b)(2) of
20 the Energy Policy Act of 2005 under this heading in this
21 and prior Acts, shall be collected in accordance with sec-
22 tion 502(7) of the Congressional Budget Act of 1974: *Pro-*
23 *vided further*, That the source of such payment received
24 from borrowers is not a loan or other debt obligation that
25 is guaranteed by the Federal Government: *Provided fur-*

1 *ther*, That pursuant to section 1702(b)(2) of the Energy
 2 Policy Act of 2005, no appropriations are available to pay
 3 the subsidy cost of such guarantees: *Provided further*,
 4 That for necessary administrative expenses to carry out
 5 this Loan Guarantee program, \$19,880,000 is appro-
 6 priated, to remain available until expended: *Provided fur-*
 7 *ther*, That \$19,880,000 of the fees collected pursuant to
 8 section 1702(h) of the Energy Policy Act of 2005 shall
 9 be credited as offsetting collections to this account to cover
 10 administrative expenses and shall remain available until
 11 expended, so as to result in a final fiscal year 2009 appro-
 12 priation from the general fund estimated at not more than
 13 \$0.

14 DEPARTMENTAL ADMINISTRATION

15 (INCLUDING TRANSFER OF FUNDS)

16 For salaries and expenses of the Department of En-
 17 ergy necessary for departmental administration in car-
 18 rying out the purposes of the Department of Energy Orga-
 19 nization Act (42 U.S.C. 7101 et seq.), including the hire
 20 of passenger motor vehicles and official reception and rep-
 21 resentation expenses not to exceed \$30,000,
 22 \$272,144,000, to remain available until expended, plus
 23 such additional amounts as necessary to cover increases
 24 in the estimated amount of cost of work for others not-
 25 withstanding the provisions of the Anti-Deficiency Act (31

1 U.S.C. 1511 et seq.): *Provided*, That such increases in
2 cost of work are offset by revenue increases of the same
3 or greater amount, to remain available until expended:
4 *Provided further*, That moneys received by the Department
5 for miscellaneous revenues estimated to total
6 \$117,317,000 in fiscal year 2009 may be retained and
7 used for operating expenses within this account, and may
8 remain available until expended, as authorized by section
9 201 of Public Law 95–238, notwithstanding the provisions
10 of 31 U.S.C. 3302: *Provided further*, That the sum herein
11 appropriated shall be reduced by the amount of miscella-
12 neous revenues received during 2009, and any related ap-
13 propriated receipt account balances remaining from prior
14 years’ miscellaneous revenues, so as to result in a final
15 fiscal year 2009 appropriation from the general fund esti-
16 mated at not more than \$154,827,000.

17 OFFICE OF THE INSPECTOR GENERAL

18 For necessary expenses of the Office of the Inspector
19 General in carrying out the provisions of the Inspector
20 General Act of 1978, as amended, \$51,927,000, to remain
21 available until expended.

1 ATOMIC ENERGY DEFENSE ACTIVITIES

2 NATIONAL NUCLEAR SECURITY ADMINISTRATION

3 WEAPONS ACTIVITIES

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 atomic energy defense weapons 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 the purchase of not to exceed two passenger motor vehi-
13 cles, and one ambulance; \$6,524,579,000, to remain avail-
14 able until expended: *Provided*, That \$38,583,000 is au-
15 thorized to be appropriated for Project 06–D–140–05
16 (PED) Uranium Processing Facility, Y–12 Plant, Oak
17 Ridge, Tennessee: *Provided further*, That \$125,000,000 is
18 authorized to be appropriated for 04–D–125 Chemistry
19 and Metallurgy facility replacement project, Los Alamos,
20 New Mexico: *Provided further*, That \$35,000,000 is au-
21 thorized to be appropriated for the 09–D–007 LANSCE
22 Refurbishment, PED, Los Alamos National Laboratory,
23 Los Alamos, New Mexico: *Provided further*, That of the
24 amount appropriated in this paragraph, \$3,500,000 shall
25 be used for projects specified in the table that appears

1 under the heading “Congressionally Directed Weapons Ac-
 2 tivities Projects” in the report of the Committee on Appro-
 3 priations of the United States Senate to accompany this
 4 Act.

5 DEFENSE NUCLEAR NONPROLIFERATION

6 For Department of Energy expenses, including the
 7 purchase, construction, and acquisition of plant and cap-
 8 ital equipment and other incidental expenses necessary for
 9 atomic energy defense, defense nuclear nonproliferation
 10 activities, in carrying out the purposes of the Department
 11 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
 12 cluding the acquisition or condemnation of any real prop-
 13 erty or any facility or for plant or facility acquisition, con-
 14 struction, or expansion, and the purchase of not to exceed
 15 one passenger motor vehicle for replacement only;
 16 \$1,909,056,000, to remain available until expended: *Pro-*
 17 *vided*, That of the funds provided herein, \$487,008,000
 18 is for Project 99–D–143 Mixed Oxide (MOX) Fuel Fab-
 19 rication Facility, Savannah River Site, South Carolina:
 20 *Provided further*, That the Department of Energy adhere
 21 strictly to Department of Energy Order 413.3A for
 22 Project 99–D–143.

23 NAVAL REACTORS

24 For Department of Energy expenses necessary for
 25 naval reactors activities to carry out the Department of

1 Energy Organization Act (42 U.S.C. 7101 et seq.), includ-
 2 ing the acquisition (by purchase, condemnation, construc-
 3 tion, or otherwise) of real property, plant, and capital
 4 equipment, facilities, and facility expansion,
 5 \$828,054,000, to remain available until expended.

6 OFFICE OF THE ADMINISTRATOR

7 For necessary expenses of the Office of the Adminis-
 8 trator in the National Nuclear Security Administration,
 9 including official reception and representation expenses
 10 not to exceed \$12,000, \$404,081,000, to remain available
 11 until expended.

12 ENVIRONMENTAL AND OTHER DEFENSE

13 ACTIVITIES

14 DEFENSE ENVIRONMENTAL CLEANUP

15 (INCLUDING TRANSFER OF FUNDS)

16 For Department of Energy expenses, including the
 17 purchase, construction, and acquisition of plant and cap-
 18 ital equipment and other expenses necessary for atomic
 19 energy defense environmental cleanup activities in car-
 20 rying out the purposes of the Department of Energy Orga-
 21 nization Act (42 U.S.C. 7101 et seq.), including the acqui-
 22 sition or condemnation of any real property or any facility
 23 or for plant or facility acquisition, construction, or expan-
 24 sion, and the purchase of not to exceed four ambulances
 25 and three passenger motor vehicles for replacement only,

1 \$5,771,506,000, to remain available until expended, of
2 which \$463,000,000 shall be transferred to the “Uranium
3 Enrichment Decontamination and Decommissioning
4 Fund”: *Provided*, That of the amount appropriated in this
5 paragraph, \$9,000,000 shall be used for projects specified
6 in the table that appears under the heading “Congressional-
7 ly Directed Defense Environmental Cleanup Projects” in
8 the report of the Committee on Appropriations of the
9 United States Senate to accompany this Act.

10 OTHER DEFENSE ACTIVITIES

11 For Department of Energy expenses, including the
12 purchase, construction, and acquisition of plant and cap-
13 ital equipment and other expenses, necessary for atomic
14 energy defense, other defense activities, and classified ac-
15 tivities, in carrying out the purposes of the Department
16 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
17 cluding the acquisition or condemnation of any real prop-
18 erty or any facility or for plant or facility acquisition, con-
19 struction, or expansion, and the purchase of not to exceed
20 10 passenger motor vehicles for replacement only,
21 \$827,503,000, to remain available until expended: *Pro-*
22 *vided*, That of the amount appropriated in this paragraph,
23 \$1,050,000 shall be used for projects specified in the table
24 that appears under the heading “Congressionally Directed
25 Other Defense Activities Projects” in the report of the

1 Committee on Appropriations of the United States Senate
2 to accompany this Act.

3 DEFENSE NUCLEAR WASTE DISPOSAL

4 For nuclear waste disposal activities to carry out the
5 purposes of Public Law 97–425, as amended, including
6 the acquisition of real property or facility construction or
7 expansion, \$193,000,000, to remain available until ex-
8 pended.

9 POWER MARKETING ADMINISTRATIONS

10 BONNEVILLE POWER ADMINISTRATION FUND

11 Expenditures from the Bonneville Power Administra-
12 tion Fund, established pursuant to Public Law 93–454,
13 are approved for official reception and representation ex-
14 penses in an amount not to exceed \$1,500. During fiscal
15 year 2009, no new direct loan obligations may be made.

16 OPERATION AND MAINTENANCE, SOUTHEASTERN POWER
17 ADMINISTRATION

18 For necessary expenses of operation and maintenance
19 of power transmission facilities and of marketing electric
20 power and energy, including transmission wheeling and
21 ancillary services pursuant to section 5 of the Flood Con-
22 trol Act of 1944 (16 U.S.C. 825s), as applied to the south-
23 eastern power area, \$7,420,000, to remain available until
24 expended: *Provided*, That, notwithstanding 31 U.S.C.
25 3302, up to \$49,520,000 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 OPERATION AND MAINTENANCE, SOUTHWESTERN
7 POWER ADMINISTRATION

8 For necessary expenses of operation and maintenance
9 of power transmission facilities and of marketing electric
10 power and energy, for construction and acquisition of
11 transmission lines, substations and appurtenant facilities,
12 and for administrative expenses, including official recep-
13 tion and representation expenses in an amount not to ex-
14 ceed \$1,500 in carrying out section 5 of the Flood Control
15 Act of 1944 (16 U.S.C. 825s), as applied to the South-
16 western Power Administration, \$28,414,000, to remain
17 available until expended: *Provided*, That, notwithstanding
18 31 U.S.C. 3302, up to \$35,000,000 collected by the
19 Southwestern Power Administration pursuant to the
20 Flood Control Act of 1944 to recover purchase power and
21 wheeling expenses shall be credited to this account as off-
22 setting collections, to remain available until expended for
23 the sole purpose of making purchase power and wheeling
24 expenditures.

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

4 For carrying out the functions authorized by title III,
5 section 302(a)(1)(E) of the Act of August 4, 1977 (42
6 U.S.C. 7152), and other related activities including con-
7 servation and renewable resources programs as author-
8 ized, including official reception and representation ex-
9 penses in an amount not to exceed \$1,500; \$218,346,000,
10 to remain available until expended, of which \$208,642,000
11 shall be derived from the Department of the Interior Rec-
12 lamation Fund: *Provided*, That of the amount herein ap-
13 propriated, \$7,342,000 is for deposit into the Utah Rec-
14 lamation Mitigation and Conservation Account pursuant
15 to title IV of the Reclamation Projects Authorization and
16 Adjustment Act of 1992: *Provided further*, That notwith-
17 standing the provision of 31 U.S.C. 3302, up to
18 \$403,118,000 collected by the Western Area Power Ad-
19 ministration pursuant to the Flood Control Act of 1944
20 and the Reclamation Project Act of 1939 to recover pur-
21 chase power and wheeling expenses shall be credited to
22 this account as offsetting collections, to remain available
23 until expended for the sole purpose of making purchase
24 power and wheeling expenditures.

1 FALCON AND AMISTAD OPERATING AND MAINTENANCE
2 FUND

3 For operation, maintenance, and emergency costs for
4 the hydroelectric facilities at the Falcon and Amistad
5 Dams, \$2,959,000, to remain available until expended,
6 and to be derived from the Falcon and Amistad Operating
7 and Maintenance Fund of the Western Area Power Ad-
8 ministration, as provided in section 423 of the Foreign
9 Relations Authorization Act, Fiscal Years 1994 and 1995.

10 FEDERAL ENERGY REGULATORY COMMISSION
11 SALARIES AND EXPENSES

12 For necessary expenses of the Federal Energy Regu-
13 latory Commission to carry out the provisions of the De-
14 partment of Energy Organization Act (42 U.S.C. 7101 et
15 seq.), including services as authorized by 5 U.S.C. 3109,
16 the hire of passenger motor vehicles, and official reception
17 and representation expenses not to exceed \$3,000,
18 \$273,400,000, to remain available until expended: *Pro-*
19 *vided*, That notwithstanding any other provision of law,
20 not to exceed \$273,400,000 of revenues from fees and an-
21 nual charges, and other services and collections in fiscal
22 year 2009 shall be retained and used for necessary ex-
23 penses in this account, and shall remain available until
24 expended: *Provided further*, That the sum herein appro-
25 priated from the general fund shall be reduced as revenues

SEC. 301. DOWNBLENDING HIGHLY ENRICHED URA-
NIUM. The USEC Privatization Act (42 U.S.C. 2297h et
seq.) is amended—

(2) by inserting after section 3112 the following:

17 “(a) DEFINITIONS.—In this section:

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1 “(2) DOWNBLENDING.—The term
2 ‘downblending’ means processing highly enriched
3 uranium into a uranium product in any form in
4 which the uranium contains less than 20 percent
5 uranium-235.

6 “(3) HIGHLY ENRICHED URANIUM.—The term
7 ‘highly enriched uranium’ has the meaning given
8 that term in section 3102(4).

9 “(4) HIGHLY ENRICHED URANIUM OF WEAPONS
10 ORIGIN.—The term ‘highly enriched uranium of
11 weapons origin’ means highly enriched uranium
12 that—

13 “(A) contains 90 percent or more uranium-
14 235; and

15 “(B) is verified by the Secretary of Energy
16 to be of weapons origin.

17 “(5) LOW-ENRICHED URANIUM.—The term
18 ‘low-enriched uranium’ means a uranium product in
19 any form, including uranium hexafluoride (UF₆) and
20 uranium oxide (UO₂), in which the uranium contains
21 less than 20 percent uranium-235, including natural
22 uranium, without regard to whether the uranium is
23 incorporated into fuel rods or complete fuel assem-
24 blies.

1 “(6) RUSSIAN HEU AGREEMENT.—The term
2 ‘Russian HEU Agreement’ has the meaning given
3 that term in section 3102(11).

4 “(7) URANIUM-235.—The term ‘uranium-235’
5 means the isotope ^{235}U .

6 “(b) STATEMENT OF POLICY.—It is the policy of the
7 United States to support the continued downblending of
8 highly enriched uranium of weapons origin in the Russian
9 Federation in order to protect the essential security inter-
10 ests of the United States with respect to the nonprolifera-
11 tion of nuclear weapons.

12 “(c) PROMOTION OF DOWNBLENDING OF RUSSIAN
13 HIGHLY ENRICHED URANIUM.—

14 “(1) COMPLETION OF THE RUSSIAN HEU
15 AGREEMENT.—Prior to the completion of the Rus-
16 sian HEU Agreement, the importation into the
17 United States of low-enriched uranium, including
18 low-enriched uranium obtained under contracts for
19 separative work units, that is produced in the Rus-
20 sian Federation and is not imported pursuant to the
21 Russian HEU Agreement, may not exceed the fol-
22 lowing amounts:

23 “(A) In the 4-year period beginning with
24 calendar year 2008, 16,559 kilograms.

1 “(B) In calendar year 2012, 24,839 kilo-
2 grams.

3 “(C) In calendar year 2013 and each cal-
4 endar year thereafter through the calendar year
5 of the completion of the Russian HEU Agree-
6 ment, 41,398 kilograms.

7 “(2) INCENTIVES TO CONTINUE
8 DOWNBLENDING RUSSIAN HIGHLY ENRICHED URA-
9 NIUM AFTER THE COMPLETION OF THE RUSSIAN
10 HEU AGREEMENT.—

11 “(A) IN GENERAL.—After the completion
12 of the Russian HEU Agreement, the importa-
13 tion into the United States of low-enriched ura-
14 nium, including low-enriched uranium obtained
15 under contracts for separative work units, that
16 is produced in the Russian Federation, whether
17 or not such low-enriched uranium is derived
18 from highly enriched uranium of weapons ori-
19 gin, may not exceed—

20 “(i) in calendar year 2014, 485,279
21 kilograms;

22 “(ii) in calendar year 2015, 455,142
23 kilograms;

24 “(iii) in calendar year 2016, 480,146
25 kilograms;

1 “(iv) in calendar year 2017, 490,710

2 kilograms;

3 “(v) in calendar year 2018, 492,731

4 kilograms;

5 “(vi) in calendar year 2019, 509,058

6 kilograms; and

7 “(vii) in calendar year 2020, 514,754

8 kilograms.

9 “(B) ADDITIONAL IMPORTS IN EXCHANGE

10 FOR A COMMITMENT TO DOWNBLEND AN ADDI-

11 TIONAL 300 METRIC TONS OF HIGHLY EN-

12 RICHED URANIUM.—

13 “(i) IN GENERAL.—In addition to the

14 amount authorized to be imported under

15 subparagraph (A) and except as provided

16 in clause (ii), if the Russian Federation en-

17 ters into a bilateral agreement with the

18 United States under which the Russian

19 Federation agrees to downblend an addi-

20 tional 300 metric tons of highly enriched

21 uranium after the completion of the Rus-

22 sian HEU Agreement, 4 kilograms of low-

23 enriched uranium, whether or not such

24 low-enriched uranium is derived from high-

25 ly enriched uranium of weapons origin and

1 including low-enriched uranium obtained
2 under contracts for separative work units,
3 may be imported in a calendar year for
4 every 1 kilogram of Russian highly en-
5 riched uranium of weapons origin that was
6 downblended in the preceding calendar
7 year, subject to the verification of the Sec-
8 retary of Energy under paragraph (9).

9 “(ii) MAXIMUM ANNUAL IMPORTS.—
10 Not more than 120,000 kilograms of low-
11 enriched uranium may be imported in a
12 calendar year under clause (i).

13 “(3) EXCEPTIONS.—The import limitations de-
14 scribed in paragraphs (1) and (2) shall not apply to
15 low-enriched uranium produced in the Russian Fed-
16 eration that is imported into the United States—

17 “(A) for use in the initial core of a new
18 nuclear reactor;

19 “(B) for processing and to be certified for
20 re-exportation and not for consumption in the
21 United States; or

22 “(C) to be added to the inventory of the
23 Department of Energy.

24 “(4) ADJUSTMENTS TO IMPORT LIMITATIONS.—

“(A) IN GENERAL.—The import limitations described in paragraph (2)(A) are based on the reference data in the 2005 Market Report on the Global Nuclear Fuel Market Supply and Demand 2005–2030 of the World Nuclear Association. In each of calendar years 2016 and 2019, the Secretary of Commerce shall review the projected demand for uranium for nuclear reactors in the United States and adjust the import limitations described in paragraph (2)(A) to account for changes in such demand in years after the year in which that report or a subsequent report is published.

“(B) INCENTIVE ADJUSTMENT.—Beginning in the second calendar year after the calendar year of the completion of the Russian HEU Agreement, the Secretary of Energy shall increase or decrease the amount of low-enriched uranium that may be imported in a calendar year under paragraph (2)(B) (including the amount of low-enriched uranium that may be imported for each kilogram of highly enriched uranium downblended under paragraph (2)(B)(i)) by a percentage equal to the percentage increase or decrease, as the case may be, in

1 the average amount of uranium loaded into nu-
2 clear power reactors in the United States in the
3 most recent 3-calendar-year period for which
4 data are available, as reported by the Energy
5 Information Administration of the Department
6 of Energy, compared to the average amount of
7 uranium loaded into such reactors during the 3-
8 calendar-year period beginning on January 1,
9 2011, as reported by the Energy Information
10 Administration.

11 “(C) PUBLICATION OF ADJUSTMENTS.—As
12 soon as practicable, but not later than July 31
13 of each calendar year, the Secretary of Energy
14 shall publish in the Federal Register the
15 amount of low-enriched uranium that may be
16 imported in the current calendar year after the
17 adjustments under subparagraph (B).

18 “(5) AUTHORITY FOR ADDITIONAL ADJUST-
19 MENT.—In addition to the adjustment under para-
20 graph (4)(A), the Secretary of Commerce may ad-
21 just the import limitations under paragraph (2)(A)
22 for a calendar year if the Secretary—

23 “(A) in consultation with the Secretary of
24 Energy, determines that the available supply of
25 low-enriched uranium and the available stock-

1 piles of uranium of the Department of Energy
2 are insufficient to meet demand in the United
3 States in the following calendar year; and

4 “(B) notifies Congress of the adjustment
5 not less than 45 days before making the adjust-
6 ment.

7 “(6) EQUIVALENT QUANTITIES OF LOW-EN-
8 RICHED URANIUM IMPORTS.—

9 “(A) IN GENERAL.—The import limita-
10 tions described in paragraphs (1) and (2) are
11 expressed in terms of uranium containing 4.4
12 percent uranium-235 and a tails assay of 0.3
13 percent.

14 “(B) ADJUSTMENT FOR OTHER URA-
15 NIUM.—Imports of low-enriched uranium under
16 paragraphs (1) and (2), including low-enriched
17 uranium obtained under contracts for separa-
18 tive work units, shall count against the import
19 limitations described in such paragraphs in
20 amounts calculated as the quantity of low-en-
21 riched uranium containing 4.4 percent ura-
22 nium-235 necessary to equal the total amount
23 of uranium-235 contained in such imports.

24 “(7) DOWNBLENDING OF OTHER HIGHLY EN-
25 RICHED URANIUM.—

1 “(A) IN GENERAL.—The downblending of
2 highly enriched uranium not of weapons origin
3 may be counted for purposes of paragraph
4 (2)(B), subject to verification under paragraph
5 (9), if the Secretary of Energy determines that
6 the highly enriched uranium to be downblended
7 poses a risk to the national security of the
8 United States.

9 “(B) EQUIVALENT QUANTITIES OF HIGHLY
10 ENRICHED URANIUM.—For purposes of deter-
11 mining the additional low-enriched uranium im-
12 ports allowed under paragraph (2)(B), highly
13 enriched uranium not of weapons origin
14 downblended pursuant to subparagraph (A)
15 shall count as downblended highly enriched ura-
16 nium of weapons origin in amounts calculated
17 as the quantity of highly enriched uranium con-
18 taining 90 percent uranium-235 necessary to
19 equal the total amount of uranium-235 con-
20 tained in the highly enriched uranium not of
21 weapons origin downblended pursuant to sub-
22 paragraph (A).

23 “(8) TERMINATION OF IMPORT RESTRIC-
24 TIONS.—The provisions of this subsection shall ter-
25 minate on December 31, 2020.

1 “(9) TECHNICAL VERIFICATIONS BY SEC-
2 RETARY OF ENERGY.—

3 “(A) IN GENERAL.—The Secretary of En-
4 ergy shall verify the origin, quantity, and ura-
5 nium-235 content of the highly enriched ura-
6 nium downblended for purposes of paragraphs
7 (2)(B) and (7).

8 “(B) METHODS OF VERIFICATION.—In
9 conducting the verification required under sub-
10 paragraph (A), the Secretary of Energy shall
11 employ the transparency measures and access
12 provisions agreed to under the Russian HEU
13 Agreement for monitoring the downblending of
14 Russian highly enriched uranium of weapons
15 origin and such other methods as the Secretary
16 determines appropriate.

17 “(10) ENFORCEMENT OF IMPORT LIMITA-
18 TIONS.—The Secretary of Commerce shall be re-
19 sponsible for enforcing the import limitations im-
20 posed under this subsection and shall enforce such
21 import limitations in a manner that imposes a mini-
22 mal burden on the commercial nuclear industry.

23 “(11) EFFECT ON OTHER AGREEMENTS.—

24 “(A) RUSSIAN HEU AGREEMENT.—Noth-
25 ing in this section shall be construed to modify

1 the terms of the Russian HEU Agreement, in-
2 cluding the provisions of the Agreement relating
3 to the amount of low-enriched uranium that
4 may be imported into the United States.

5 “(B) OTHER AGREEMENTS.—If a provision
6 of any agreement between the United States
7 and the Russian Federation, other than the
8 Russian HEU Agreement, relating to the im-
9 portation of low-enriched uranium, including
10 low-enriched uranium obtained under contracts
11 for separative work units, into the United
12 States conflicts with a provision of this section,
13 the provision of this section shall supersede the
14 provision of the agreement to the extent of the
15 conflict.”.

16 SEC. 302. UNFUNDED REQUESTS FOR PROPOSALS.

17 None of the funds appropriated by this Act may be used
18 to prepare or initiate Requests For Proposals (RFPs) for
19 a program if the program has not been funded by Con-
20 gress.

21 SEC. 303. WORKFORCE RESTRUCTURING. None of

22 the funds appropriated by this Act may be used to—

23 (1) develop or implement a workforce restruc-
24 turing plan that covers employees of the Department
25 of Energy; or

1 (2) provide enhanced severance payments or
2 other benefits for employees of the Department of
3 Energy, under section 3161 of the National Defense
4 Authorization Act for Fiscal Year 1993 (Public Law
5 102–484; 42 U.S.C. 7274h).

6 SEC. 304. SECTION 3161 ASSISTANCE. None of the
7 funds appropriated by this Act may be used to augment
8 the funds made available for obligation by this Act for sev-
9 erance payments and other benefits and community assist-
10 ance grants under section 3161 of the National Defense
11 Authorization Act for Fiscal Year 1993 (Public Law 102–
12 484; 42 U.S.C. 7274h) unless the Department of Energy
13 submits a reprogramming request to the appropriate con-
14 gressional committees.

15 SEC. 305. UNEXPENDED BALANCES. The unex-
16 pended balances of prior appropriations provided for ac-
17 tivities in this Act may be available to the same appropria-
18 tion accounts for such activities established pursuant to
19 this title. Available balances may be merged with funds
20 in the applicable established accounts and thereafter may
21 be accounted for as one fund for the same time period
22 as originally enacted.

23 SEC. 306. BONNEVILLE POWER AUTHORITY SERV-
24 ICE TERRITORY. None of the funds in this or any other
25 Act for the Administrator of the Bonneville Power Admin-

1 istration may be used to enter into any agreement to per-
2 form energy efficiency services outside the legally defined
3 Bonneville service territory, with the exception of services
4 provided internationally, including services provided on a
5 reimbursable basis, unless the Administrator certifies in
6 advance that such services are not available from private
7 sector businesses.

8 SEC. 307. USER FACILITIES. When the Department
9 of Energy makes a user facility available to universities
10 or other potential users, or seeks input from universities
11 or other potential users regarding significant characteris-
12 ties or equipment in a user facility or a proposed user fa-
13 cility, the Department shall ensure broad public notice of
14 such availability or such need for input to universities and
15 other potential users. When the Department of Energy
16 considers the participation of a university or other poten-
17 tial user as a formal partner in the establishment or oper-
18 ation of a user facility, the Department shall employ full
19 and open competition in selecting such a partner. For pur-
20 poses of this section, the term “user facility” includes, but
21 is not limited to: (1) a user facility as described in section
22 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C.
23 13503(a)(2)); (2) a National Nuclear Security Adminis-
24 tration Defense Programs Technology Deployment Cen-

1 ter/User Facility; and (3) any other Departmental facility
2 designated by the Department as a user facility.

3 SEC. 308. INTELLIGENCE ACTIVITIES. Funds appro-
4 priated by this or any other Act, or made available by the
5 transfer of funds in this Act, for intelligence activities are
6 deemed to be specifically authorized by the Congress for
7 purposes of section 504 of the National Security Act of
8 1947 (50 U.S.C. 414) during fiscal year 2009 until the
9 enactment of the Intelligence Authorization Act for fiscal
10 year 2009.

11 SEC. 309. LABORATORY DIRECTED RESEARCH AND
12 DEVELOPMENT. Of the funds made available by the De-
13 partment of Energy for activities at government-owned,
14 contractor-operator operated laboratories funded in this
15 Act or subsequent Energy and Water Development Appro-
16 priations Acts, the Secretary may authorize a specific
17 amount, not to exceed 10 percent of such funds, to be used
18 by such laboratories for laboratory-directed research and
19 development: *Provided*, That the Secretary may also au-
20 thorize a specific amount not to exceed 6 percent of such
21 funds, to be used by the plant manager of a covered nu-
22 clear weapons production plant or the manager of the Ne-
23 vada Site Office for plant or site-directed research and de-
24 velopment: *Provided further*, That notwithstanding De-
25 partment of Energy order 413.2A, dated January 8, 2001,

1 beginning in fiscal year 2006 and thereafter, all DOE lab-
2 oratories may be eligible for laboratory directed research
3 and development funding.

4 SEC. 310. Not to exceed 5 percent of any appropria-
5 tion made available for Department of Energy activities
6 funded in this Act or subsequent Energy and Water Devel-
7 opment Appropriations Acts may be transferred between
8 such appropriations, but no such appropriation, except as
9 otherwise provided, shall be increased or decreased by
10 more than 5 percent by any such transfers, and notifica-
11 tion of such transfers shall be submitted promptly to the
12 Committees on Appropriations of the House and Senate.

13 SEC. 311. GENERAL PLANT PROJECTS. Plant or con-
14 struction projects for which amounts are made available
15 under this and subsequent appropriation Acts with a cur-
16 rent estimated cost of less than \$10,000,000 are consid-
17 ered for purposes of section 4703 of Public Law 107–314
18 as a plant project for which the approved total estimated
19 cost does not exceed the minor construction threshold and
20 for purposes of section 4704 of Public Law 107–314 as
21 a construction project with a current estimated cost of less
22 than a minor construction threshold.

23 SEC. 312. RENO HYDROGEN FUEL PROJECT. (a) The
24 non-Federal share of project costs shall be 20 percent.

1 (b) The cost of project vehicles, related facilities, and
2 other activities funded from the Federal Transit Adminis-
3 tration sections 5307, 5308, 5309, and 5314 program, in-
4 cluding the non-Federal share for the FTA funds, is an
5 eligible component of the non-Federal share for this
6 project.

7 (c) Contribution of the non-Federal share of project
8 costs for all grants made for this project may be deferred
9 until the entire project is completed.

10 (d) All operations and maintenance costs associated
11 with vehicles, equipment, and facilities utilized for this
12 project are eligible project costs.

13 (e) This section applies to project appropriations be-
14 ginning in fiscal year 2004.

15 SEC. 313. INTEGRATED UNIVERSITY PROGRAM. (a)
16 The Secretary of Energy, along with the Administrator
17 of the National Nuclear Security Administration and the
18 Chairman of the Nuclear Regulatory Commission, shall es-
19 tablish an Integrated University Program.

20 (b) For the purposes of carrying out this section,
21 \$45,000,000 is authorized to be appropriated in each of
22 fiscal years 2009 to 2019 as follows:

- 23 (1) \$15,000,000 for the Department of Energy;
24 (2) \$15,000,000 for the Nuclear Regulatory
25 Commission; and

1 (3) \$15,000,000 for the National Nuclear Secu-
2 rity Administration.

3 (c) Of the amounts authorized to carry out this sec-
4 tion, \$10,000,000 shall be used by each organization to
5 support university research and development in areas rel-
6 evant to their respective organization's mission, and
7 \$5,000,000 shall be used by each organization to support
8 a jointly implemented Nuclear Science and Engineering
9 Grant Program that will support multiyear research
10 projects that do not align with programmatic missions but
11 are critical to maintaining the discipline of nuclear science
12 and engineering.

13 SEC. 314. NAMING LABORATORY FACILITIES. Facili-
14 ties at Sandia National Laboratories and Los Alamos Na-
15 tional Laboratory, New Mexico, shall be named in honor
16 of Senator Pete V. Domenici in recognition of his excep-
17 tional service in the national interest and his steadfast
18 support of scientific excellence at our national labora-
19 tories.

20 TITLE IV

21 INDEPENDENT AGENCIES

22 APPALACHIAN REGIONAL COMMISSION

23 For expenses necessary to carry out the programs au-
24 thorized by the Appalachian Regional Development Act of
25 1965, as amended, not withstanding 40 U.S.C. 14704,

1 and, for necessary expenses for the Federal Co-Chairman
 2 and the Alternate on the Appalachian Regional Commis-
 3 sion, for payment of the Federal share of the administra-
 4 tive expenses of the Commission, including services as au-
 5 thorized by 5 U.S.C. 3109, and hire of passenger motor
 6 vehicles, \$85,000,000, to remain available until expended:
 7 *Provided*, That any congressionally directed spending shall
 8 be taken from within that State's allocation in the fiscal
 9 year in which it is provided.

10 DEFENSE NUCLEAR FACILITIES SAFETY BOARD

11 SALARIES AND EXPENSES

12 For necessary expenses of the Defense Nuclear Fa-
 13 cilities Safety Board in carrying out activities authorized
 14 by the Atomic Energy Act of 1954, as amended by Public
 15 Law 100-456, section 1441, \$25,499,000, to remain
 16 available until expended.

17 DELTA REGIONAL AUTHORITY

18 SALARIES AND EXPENSES

19 For necessary expenses of the Delta Regional Author-
 20 ity and to carry out its activities, as authorized by the
 21 Delta Regional Authority Act of 2000, as amended, not-
 22 withstanding sections 382C(b)(2), 382F(d), 382M, and
 23 382N of said Act, \$20,000,000, to remain available until
 24 expended.

1 DENALI COMMISSION

2 For expenses of the Denali Commission including the
3 purchase, construction, and acquisition of plant and cap-
4 ital equipment as necessary and other expenses,
5 \$21,800,000, to remain available until expended, notwith-
6 standing the limitations contained in section 306(g) of the
7 Denali Commission Act of 1998.

8 NUCLEAR REGULATORY COMMISSION

9 SALARIES AND EXPENSES

10 For necessary expenses of the Commission in car-
11 rying out the purposes of the Energy Reorganization Act
12 of 1974, as amended, and the Atomic Energy Act of 1954,
13 as amended, including official representation expenses
14 (not to exceed \$25,000), \$1,022,956,000, to remain avail-
15 able until expended: *Provided*, That of the amount appro-
16 priated herein, \$37,300,000 shall be derived from the Nu-
17 clear Waste Fund: *Provided further*, That revenues from
18 licensing fees, inspection services, and other services and
19 collections estimated at \$860,857,000 in fiscal year 2009
20 shall be retained and used for necessary salaries and ex-
21 penses in this account, notwithstanding 31 U.S.C. 3302,
22 and shall remain available until expended: *Provided fur-*
23 *ther*, That the sum herein appropriated shall be reduced
24 by the amount of revenues received during fiscal year
25 2009 so as to result in a final fiscal year 2009 appropria-

tion estimated at not more than \$162,099,000: *Provided further*, That such funds as are made available for necessary expenses of the Commission by this Act or any other Act may be used for the acquisition and lease of additional office space provided by the General Services Administration for personnel of the U.S. Nuclear Regulatory Commission as close as reasonably possible to the Commission's headquarters location in Rockville, Maryland, and of such square footage and for such lease term, as are determined by the Commission to be necessary to maintain the agency's regulatory effectiveness, efficiency, and emergency response capability: *Provided further*, That notwithstanding any other provision of law or any prevailing practice, the acquisition and lease of space for such purpose shall, to the extent necessary to obtain the space, be based on the prevailing rates in the immediate vicinity of the Commission's headquarters.

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, \$9,344,000, to remain available until expended: *Provided*, That revenues from licensing fees, inspection services, and other services and collections estimated at \$8,410,000 in fiscal year 2009 shall be retained and be available until expended, for necessary salaries and expenses in this account, notwith-

1 standing 31 U.S.C. 3302: *Provided further*, That the sum
2 herein appropriated shall be reduced by the amount of rev-
3 enues received during fiscal year 2009 so as to result in
4 a final fiscal year 2009 appropriation estimated at not
5 more than \$934,000.

6 NUCLEAR WASTE TECHNICAL REVIEW BOARD

7 SALARIES AND EXPENSES

8 For necessary expenses of the Nuclear Waste Tech-
9 nical Review Board, as authorized by Public Law 100–
10 203, section 5051, \$3,811,000, to be derived from the Nu-
11 clear Waste Fund, and to remain available until expended.

12 OFFICE OF THE FEDERAL COORDINATOR FOR ALASKA

13 NATURAL GAS TRANSPORTATION PROJECTS

14 For necessary expenses for the Office of the Federal
15 Coordinator for Alaska Natural Gas Transportation
16 Projects pursuant to the Alaska Natural Gas Pipeline Act
17 of 2004, \$4,400,000: *Provided*, That any fees, charges, or
18 commissions received pursuant to section 802 of Public
19 Law 110–140 in fiscal year 2009 in excess of \$4,660,000
20 shall not be available for obligation until appropriated in
21 a subsequent Act of Congress.

22 TITLE V

23 GENERAL PROVISIONS

24 SEC. 501. None of the funds appropriated by this Act
25 may be used in any way, directly or indirectly, to influence

1 congressional action on any legislation or appropriation
2 matters pending before Congress, other than to commu-
3 nicate to Members of Congress as described in 18 U.S.C.
4 1913.

5 SEC. 502. None of the funds made available in this
6 Act may be transferred to any department, agency, or in-
7 strumentality of the United States Government, except
8 pursuant to a transfer made by, or transfer authority pro-
9 vided in this Act or any other appropriation Act.

10 This Act may be cited as the “Energy and Water De-
11 velopment and Related Agencies Appropriations Act,
12 2009”.

Calendar No. 876

110TH CONGRESS
2^D Session

S. 3258

[Report No. 110-416]

A BILL

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2009, and for other purposes.

JULY 14, 2008

Read twice and placed on the calendar