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111TH CONGRESS
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S. 3635

[Report No. 111–228]

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2011, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 22, 2010

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, 2011, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated, for en-
5 ergy and water development and related agencies for the
6 fiscal year ending September 30, 2011, and for other pur-
7 poses, namely:

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

5 The following appropriations shall be expended under
6 the direction of the Secretary of the Army and the super-
7 vision of the Chief of Engineers for authorized civil func-
8 tions of the Department of the Army pertaining to rivers
9 and harbors, flood and storm damage reduction, shore
10 protection, aquatic ecosystem restoration, and related ef-
11 forts.

12 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; and for
22 miscellaneous investigations and, when authorized by law,
23 surveys and detailed studies, and plans and specifications
24 of projects prior to construction, \$166,000,000, to remain
25 available until expended.

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the construction of river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related projects authorized by law; for conducting detailed studies, and plans and specifications, of such projects (including those involving participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such detailed studies, and plans and specifications, shall not constitute a commitment of the Government to construction); \$1,780,000,000, to remain available until expended; of which such sums as are necessary to cover the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund as authorized by Public Law 104–303; and of which such sums as are necessary to cover one-half of the costs of construction, replacement, rehabilitation, and expansion of inland waterways projects (including only Kentucky Lock and Dam, Tennessee River, Kentucky; Lock and Dams 2, 3, and 4 Monongahela River, Pennsylvania; Lock and Dam 27, Mississippi River, Illinois; Markland Locks and Dam, Kentucky and Indiana; Olmsted Lock and Dam, Illinois and Kentucky; and Emsworth Locks and Dam,

1 Ohio River, Pennsylvania) shall be derived from the Inland
2 Waterways Trust Fund: *Provided*, That the Chief of Engi-
3 neers is directed to use \$20,000,000 of the funds appro-
4 priated herein for the Dallas Floodway Extension, Texas,
5 project, including the Cadillac Heights feature, generally
6 in accordance with the Chief of Engineers report dated
7 December 7, 1999: *Provided further*, That the Chief of En-
8 gineers is directed to use \$20,000,000 of the funds appro-
9 priated herein for construction-related activities for flood
10 risk management in the Fargo, North Dakota-Moorhead,
11 Minnesota Metropolitan Area subject to a project being
12 found technically sound, environmentally sustainable, and
13 economically viable: *Provided further*, That the Chief of
14 Engineers is directed to use \$1,500,000 of funds available
15 for the Greenbrier Basin, Marlinton, West Virginia, Local
16 Protection Project to continue engineering and design ef-
17 forts, execute a project partnership agreement for phases
18 1 and 2, and initiate construction of the project substan-
19 tially in accordance with Alternative 1 as described in the
20 Corps of Engineers Final Detailed Project Report and En-
21 vironmental Impact Statement for Marlinton, West Vir-
22 ginia Local Protection Project dated September 2008 with
23 the Federal and non-Federal cost shares determined in ac-
24 cordance with the ability-to-pay provisions prescribed in
25 section 103(m) of the Water Resources Development Act

1 of 1986: *Provided further*, That the Chief of Engineers is
 2 directed to use \$2,750,000 of the funds appropriated here-
 3 in to continue planning, engineering, design or construc-
 4 tion of the Lower Mingo County, Upper Mingo County,
 5 Wayne County, McDowell County, West Virginia, ele-
 6 ments of the Levisa and Tug Forks of the Big Sandy
 7 River and Upper Cumberland River Project.

8 MISSISSIPPI RIVER AND TRIBUTARIES

9 For expenses necessary for flood damage reduction
 10 projects and related efforts in the Mississippi River allu-
 11 vial valley below Cape Girardeau, Missouri, as authorized
 12 by law, \$335,000,000, to remain available until expended,
 13 of which such sums as are necessary to cover the Federal
 14 share of eligible operation and maintenance costs for in-
 15 land harbors shall be derived from the Harbor Mainte-
 16 nance Trust Fund: *Provided*, That the Secretary of the
 17 Army, acting through the Chief of Engineers is directed
 18 to use \$16,000,000 appropriated herein for construction
 19 of water withdrawal features of the Grand Prairie, Arkan-
 20 sas, project.

21 OPERATION AND MAINTENANCE

22 For expenses necessary for the operation, mainte-
 23 nance, and care of existing river and harbor, flood and
 24 storm damage reduction, aquatic ecosystem restoration,
 25 and related projects authorized by law; providing security

1 for infrastructure owned or operated by the Corps, includ-
2 ing administrative buildings and laboratories; maintaining
3 harbor channels provided by a State, municipality, or
4 other public agency that serve essential navigation needs
5 of general commerce, where authorized by law; surveying
6 and charting northern and northwestern lakes and con-
7 necting waters; clearing and straightening channels; and
8 removing obstructions to navigation, \$2,495,000,000, to
9 remain available until expended, of which such sums as
10 are necessary to cover the Federal share of eligible oper-
11 ation and maintenance costs for coastal harbors and chan-
12 nels, and for inland harbors shall be derived from the Har-
13 bor Maintenance Trust Fund; of which such sums as be-
14 come available from the special account for the Corps es-
15 tablished by the Land and Water Conservation Act of
16 1965 (16 U.S.C. 460l–6a(i)), shall be derived from that
17 account for resource protection, research, interpretation,
18 and maintenance activities related to resource protection
19 in the areas at which outdoor recreation is available; and
20 of which such sums as become available from fees collected
21 under section 217 of the Water Resources Development
22 Act of 1996 (Public Law 104–303) shall be used to cover
23 the cost of operation and maintenance of the dredged ma-
24 terial disposal facilities for which such fees have been col-
25 lected: *Provided*, That 1 percent of the total amount of

1 funds provided for each of the programs, projects or activi-
 2 ties funded under this heading shall not be allocated to
 3 a field operating activity prior to the beginning of the
 4 fourth quarter of the fiscal year and shall be available for
 5 use by the Chief of Engineers to fund such emergency ac-
 6 tivities as the Chief of Engineers determines to be nec-
 7 essary and appropriate; and that the Chief of Engineers
 8 shall allocate during the fourth quarter any remaining
 9 funds which have not been used for emergency activities
 10 proportionally in accordance with the amounts provided
 11 for the programs, projects or activities.

12 REGULATORY PROGRAM

13 For expenses necessary for administration of laws
 14 pertaining to regulation of navigable waters and wetlands,
 15 \$193,000,000, to remain available until expended.

16 FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

17 For expenses necessary to clean up contamination
 18 from sites in the United States resulting from work per-
 19 formed as part of the Nation's early atomic energy pro-
 20 gram, \$130,000,000, to remain available until expended.

21 FLOOD CONTROL AND COASTAL EMERGENCIES

22 For expenses necessary to prepare for flood, hurri-
 23 cane, and other natural disasters and support emergency
 24 operations, repairs, and other activities in response to

1 such disasters as authorized by law, \$30,000,000, to re-
 2 main available until expended.

3 EXPENSES

4 For expenses necessary for the supervision and gen-
 5 eral administration of the civil works program in the head-
 6 quarters of the United States Army Corps of Engineers
 7 and the offices of the Division Engineers; and for the man-
 8 agement and operation of the Humphreys Engineer Cen-
 9 ter Support Activity, the Institute for Water Resources,
 10 the United States Army Engineer Research and Develop-
 11 ment Center, and the United States Army Corps of Engi-
 12 neers Finance Center, \$185,000,000, to remain available
 13 until expended, of which not to exceed \$5,000 may be used
 14 for official reception and representation purposes and only
 15 during the current fiscal year: *Provided*, That no part of
 16 any other appropriation provided in title I of this Act shall
 17 be available to fund the civil works activities of the Office
 18 of the Chief of Engineers or the civil works executive di-
 19 rection and management activities of the division offices:
 20 *Provided further*, That any Flood Control and Coastal
 21 Emergencies appropriation may be used to fund the super-
 22 vision and general administration of emergency oper-
 23 ations, repairs, and other activities in response to any
 24 flood, hurricane, or other natural disaster.

1 OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
2 FOR CIVIL WORKS

3 For the Office of the Assistant Secretary of the Army
4 for Civil Works as authorized by 10 U.S.C. 3016(b)(3),
5 \$6,000,000, to remain available until expended.

6 ADMINISTRATIVE PROVISION

7 The Revolving Fund, Corps of Engineers, shall be
8 available during the current fiscal year for purchase (not
9 to exceed 100 for replacement only) and hire of passenger
10 motor vehicles for the civil works program.

11 GENERAL PROVISIONS, CORPS OF ENGINEERS—CIVIL

12 SEC. 101. (a) None of the funds provided in title I
13 of this Act, or provided by previous appropriations Acts
14 to the agencies or entities funded in title I of this Act
15 that remain available for obligation or expenditure in fiscal
16 year 2011, shall be available for obligation or expenditure
17 through a reprogramming of funds that:

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

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

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

1 (4) proposes to uses funds directed for a spe-
2 cific activity for a different purpose, unless prior ap-
3 proval is received from the House and Senate Com-
4 mittees on Appropriations;

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

10 (6) INVESTIGATIONS.—For a base level over
11 \$100,000, reprogramming of 25 percent of the base
12 amount up to a limit of \$150,000 per project, study
13 or activity is allowed: *Provided*, That for a base level
14 less than \$100,000, the reprogramming limit is
15 \$25,000: *Provided further*, That up to \$25,000 may
16 be reprogrammed to continue ongoing work on any
17 program, project, or activity that did not receive an
18 appropriation for existing obligations and concomi-
19 tant administrative expenses;

20 (7) CONSTRUCTION.—For a base level
21 over\$2,000,000, reprogramming of 15 percent of the
22 base amount up to a limit of \$3,000,000 per project,
23 study or activity is allowed: *Provided*, That for a
24 base level less than \$2,000,000, the reprogramming
25 limit is \$300,000: *Provided further*, That up to

1 \$3,000,000 may be reprogrammed for settled con-
2 tractor claims, changed conditions, or real estate de-
3 ficiency judgments: *Provided further*, That up to
4 \$300,000 may be reprogrammed into continuing any
5 study or activity that did not receive an appropria-
6 tion for existing obligations and concomitant admin-
7 istrative expenses;

8 (8) OPERATION AND MAINTENANCE.—Unlim-
9 ited reprogramming authority is granted in order for
10 the Corps to be able to respond to emergencies: *Pro-*
11 *vided*, That the Chief of Engineers must notify the
12 House and Senate Committees on Appropriations of
13 these emergency actions as soon thereafter as prac-
14 ticable: *Provided further*, That for a base level over
15 \$1,000,000, reprogramming of 15 percent of the
16 base amount up to a limit of \$5,000,000 per project,
17 study or activity is allowed: *Provided further*, That
18 for a base level less than \$1,000,000, the re-
19 programming limit is \$150,000: *Provided further*,
20 That up to \$150,000 may be reprogrammed into
21 continuing any study or activity that did not receive
22 an appropriation;

23 (9) MISSISSIPPI RIVER AND TRIBUTARIES.—
24 The same reprogramming guidelines as provided in
25 subsections 6 through 8 above apply to the Inves-

1 tigation, Construction, and Operation and Maintenance
2 portions of the Mississippi River and Tributaries
3 Account; and

4 (10) FORMERLY UTILIZED SITES REMEDIAL ACTION
5 PROGRAM.—Reprogramming of up to 15 percent of the base of the receiving project is permitted.

6 (b) DE MINIMIS REPROGRAMMINGS.—In no case
7 should a reprogramming for less than \$50,000 be submitted
8 to the House and Senate Committees on Appropriations.
9 prios.

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

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

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

1 (2) A delineation in the table for each appro-
2 priation both by object class and program, project
3 and activity as detailed in the budget appendix for
4 the respective appropriations; and

5 (3) An identification of items of special congres-
6 sional interest.

7 SEC. 102. None of the funds in this Act, or previous
8 Acts, making funds available to the Corps, shall be used
9 to implement any pending or future competitive sourcing
10 actions under OMB Circular A-76 or High Performing
11 Organizations for the U.S. Army Corps of Engineers.

12 SEC. 103. None of the funds in this Act, or previous
13 Acts, making funds available to the Corps, shall be used
14 to award any continuing contract that commits additional
15 funding from the Inland Waterways Trust Fund unless
16 or until such time that a long-term mechanism to enhance
17 revenues in this Fund sufficient to meet the cost-sharing
18 authorized in the Water Resources Development Act of
19 1986 (Public Law 99-662), is enacted.

20 SEC. 104. Within 120 days of the date of the Chief
21 of Engineers Report on a water resource matter, the As-
22 sistant Secretary of the Army (Civil Works) shall submit
23 the report to the appropriate authorizing and appro-
24 priating committees of the Congress.

1 SEC. 105. During the 1-year period beginning on the
2 date of enactment of this Act, the Secretary of the Army
3 shall implement measures recommended in the efficacy
4 study, or provided in interim reports, authorized under
5 section 3061 of the Water Resources Development Act of
6 2007 (121 Stat. 1121), with such modifications or emer-
7 gency measures as the Secretary of the Army determines
8 to be appropriate, to prevent aquatic nuisance species
9 from bypassing the Chicago Sanitary and Ship Canal Dis-
10 persal Barrier Project referred to in that section and to
11 prevent aquatic nuisance species from dispersing into the
12 Great Lakes and such emergency measures as the Sec-
13 retary of the Army determines to be appropriate to pre-
14 vent such species from dispersing into the Great Lakes
15 by way of any other hydrologic connections between the
16 Great Lakes and the Mississippi River.

17 SEC. 106. That portion of the project for navigation,
18 Block Island Harbor of Refuge, Rhode Island adopted by
19 the Rivers and Harbors Act of July 11, 1870, consisting
20 of the cut-stone breakwater lining the west side of the
21 Inner Basin: Beginning at a point with coordinates
22 N32579.55, E312625.53, thence running northerly about
23 76.59 feet to a point with coordinates N32655.92,
24 E312631.32, thence running northerly about 206.81 feet
25 to a point with coordinates N32858.33, E312673.74,

1 thence running easterly about 109.00 feet to a point with
 2 coordinates N32832.15, E312779.54, shall no longer be
 3 authorized after the date of enactment of this Act.

4 RURAL UTAH

5 SEC. 107. Section 595(a)(2) of the Water Resources
 6 Development Act of 1999 (113 Stat. 383; 117 Stat. 1836)
 7 is amended—

8 (1) in subparagraph (A), by striking “; and”
 9 and inserting a semicolon;

10 (2) in subparagraph (B), by striking the period
 11 at the end and inserting “; and”; and

12 (3) by adding at the end the following:

13 “(C) the portions of Utah County and
 14 Weber Counties that are located outside of a
 15 political subdivision, the population of which is
 16 greater than 10,000 residents.”.

17 SEC. 108. Section 595 of the Water Resources Devel-
 18 opment Act of 1999 (113 Stat. 383; 117 Stat. 1836; 118
 19 Stat. 440), as amended by section 5067 of the Water Re-
 20 sources Development Act of 2007 (121 Stat. 1219), is
 21 amended in subsection (h) by striking “150,000,000 for
 22 rural Nevada” and inserting “\$200,000,000 for rural Ne-
 23 vada”.

24 SEC. 109. (a) ACQUISITION.—The Secretary is au-
 25 thorized to acquire any real property and associated real

1 property interests in the vicinity of Hanover, New Hamp-
2 shire as may be needed for the Engineer Research and
3 Development Center laboratory facilities at the Cold Re-
4 gions Research and Engineering Laboratory.

5 (b) REVOLVING FUND.—The Secretary is authorized
6 to use the Revolving Fund (33 U.S.C. 576) through the
7 Plant Replacement and Improvement Program to acquire
8 the real property and associated real property interests in
9 subsection (a). The Secretary shall ensure that the Revolv-
10 ing Fund is appropriately reimbursed from the benefitting
11 appropriations.

12 (c) RIGHT OF FIRST REFUSAL.—The Secretary may
13 provide the seller of any real property and associated prop-
14 erty interests identified in subsection (a)—

15 (1) a right of first refusal to acquire such prop-
16 erty, or any portion thereof, in the event the prop-
17 erty, or any portion thereof, is no longer needed by
18 the Department of the Army.

19 (2) a right of first refusal to acquire any real
20 property or associated real property interests ac-
21 quired by condemnation in Civil Action No. 81–360–
22 L, in the event the property, or any portion thereof,
23 is no longer needed by the Department of the Army.

24 (3) The purchase of any property by the seller
25 exercising either right of first refusal authorized in

1 this section shall be for consideration acceptable to
2 the Secretary and shall be for not less than fair
3 market value at the time the property becomes avail-
4 able for purchase. The right of first refusal author-
5 ized in this section shall not inure to the benefit of
6 the Seller's successors or assigns.

7 (d) DISPOSAL.—The Secretary of the Army is au-
8 thorized to dispose of any property or associated real prop-
9 erty interests that are subject to the exercise of the right
10 of first refusal as set forth herein.

11 SEC. 110. The Secretary of the Army, acting through
12 the Chief of Engineers, is authorized, using amounts avail-
13 able in the Revolving Fund established by section 101 of
14 the Act of July 27, 1953, chap. 245 (33 U.S.C. 576), to
15 construct a Ship/Tow Simulator building, an Engineer Re-
16 search and Development Center headquarters building,
17 and a Modular Hydraulic Flume building, and to purchase
18 real estate, perform construction, and make facility, util-
19 ity, street, road, and infrastructure improvements to the
20 Engineer Research and Development Center's installa-
21 tions and facilities. The Secretary shall ensure that the
22 Revolving Fund is appropriately reimbursed from the ben-
23 efitting appropriations.

24 SEC. 111. Section 3113 of the Water Resources De-
25 velopment Act, 2007 (121 Stat. 1041) is amended by

1 striking all after the words “total cost of” and inserting
2 in lieu thereof the following: “\$38,800,000, with an esti-
3 mated Federal cost of \$25,220,000 and an estimated non-
4 Federal cost of \$13,580,000.”

5 SEC. 112. The boundaries of the project referred to
6 as “Des Moines Recreational River and Greenbelt, Iowa”
7 in the Supplemental Appropriations Act, 1985 (99 Stat.
8 313) are hereby expanded to include the entirety of sec-
9 tions 19 and 29, situated in T89N, R28W.

10 SEC. 113. That portion of the project of navigation,
11 Chicago Harbor, Illinois, authorized by the River and Har-
12 bor Acts of March 3, 1899 and March 2, 1919, and that
13 begins at the southwest corner of the Metropolitan Sani-
14 tary District of Greater Chicago sluice gate that abuts the
15 north wall of the Chicago River Lock and that continues
16 north for approximately 290 feet, thence east approxi-
17 mately 1,000 feet, then south approximately 290 feet,
18 thence west approximately 1,000 feet to the point of begin-
19 ning shall no longer be authorized as of the date of enact-
20 ment of this Act.

21 DEVILS LAKE, NORTH DAKOTA, LONG-TERM

22 MAINTENANCE AND REPAIR

23 SEC. 114. (a) The Secretary shall assume responsi-
24 bility for the long-term maintenance and repair of the
25 major flood damage reduction features constructed by the

1 Corps of Engineers at Devils Lake, North Dakota. The
 2 City of Devils Lake, North Dakota, shall be responsible
 3 for all costs of operation and maintenance other than
 4 those defined as Long-Term Maintenance and Repair in
 5 subsection (b) below.

6 (b) Long-Term Maintenance and Repair consists of
 7 replacing, reconstructing, or rehabilitating major flood
 8 damage reduction features such as embankments, pump
 9 stations, pumps and gate wells that: (1) have become di-
 10 lapidated or in need of repair as a result of the passage
 11 of time or ordinary wear and tear; or (2) have been dam-
 12 aged or destroyed by wind, wave, or water action of other
 13 than an ordinary nature when, in the discretion of the Sec-
 14 retary, such replacement, reconstruction, or rehabilitation
 15 is warranted for the continued functioning of the flood
 16 damage reduction project at Devils Lake.

17 SEC. 115. Section 111 of title I of division C of the
 18 Consolidated Appropriations Act, 2005 (118 Stat. 2944)
 19 as amended by section 3001 of Public Law 110–114 is
 20 further amended by adding the following before ““(c) AU-
 21 THORIZATION OF APPROPRIATIONS.’”:

22 ““(3) may grant to the City of Tuscaloosa a
 23 long term lease or license agreement for any portion
 24 of the Parcel not required for construction of the
 25 new administrative facility under subsection

1 (a)(2)(c) until such time as the City of Tuscaloosa
2 is prepared to take fee simple title per the provisions
3 of subsection (b)(2).’”.

4 SEC. 116. Section 333 of the Water Resources Devel-
5 opment Act of 1996 (110 Stat. 3718) is further amended
6 to read as follows:

7 (1) by striking subsection (b) and inserting the
8 following in lieu thereof:

9 “(b) Lands individually acquired by the Secretary
10 under this section for flood protection and flood manage-
11 ment in the Passaic River Basin are to held by the Sec-
12 retary and the non-Federal sponsor as tenants in common
13 with, thereafter, any interest held by the Secretary in such
14 lands to be transferred by Quitclaim Deed to the Non-
15 Federal Sponsor for consideration as is necessary to
16 render the project cost-sharing percentages to be in com-
17 pliance with section 903(c) of the Water Resources Devel-
18 opment Act of 1986 (33 U.S.C. 2213) and such other law
19 as may be applicable.”; and

20 (2) inserting the following as a new subsection
21 (e):

22 “(e) FUNDS FOR LAND ACQUISITION.—Funds for ac-
23 quiring such lands as are necessary in carrying out the
24 requirements of this section and requirements as further
25 recommended by the Secretary shall include funds as pro-

1 vided in subsection (c) and (d) of this section herein and
2 also funds as previously appropriated with any and all
3 such funds to be held by the Secretary for use in acquiring
4 the requisite lands in proportion to the project cost-shar-
5 ing percentages.”.

6 SEC. 117. (a) The Federal share of the cost of any
7 environmental infrastructure assistance project or pro-
8 gram for which an initial appropriation is provided in this
9 Act or any other Act providing appropriations for Energy
10 and Water Development for fiscal year 2011 shall be 55
11 percent of the total cost of the project or program.

12 (b) Any cost-sharing agreement executed on or before
13 October 1, 2011 for an environmental infrastructure as-
14 sistance project or program that is modified during fiscal
15 year 2012 shall also include a modification specifying that
16 the Federal share of the cost of the project or program
17 is 55 percent of all future costs of the project or program.

18 (c) Any cost-sharing agreement in effect as of Octo-
19 ber 1, 2012 for which the Federal share of the cost is
20 greater than 55 percent shall be modified to reduce the
21 Federal cost share to 55 percent of all future costs.

22 (d) Except as provided in subsections (b) and (c) of
23 this section, as of October 1, 2012, the Federal share of
24 the cost of any environmental infrastructure assistance

1 project or program shall be 55 percent of the total cost
2 of the project or program.

3 SEC. 118. Section 3182 of Public Law 110–114 is
4 amended as follows by inserting a new subparagraph (k)
5 and redesignating the existing subparagraph (k) as sub-
6 paragraph (l):

7 “(k) ST. CHARLES COUNTY, MISSOURI.—

8 “(1) DEFINITIONS.—In this subsection, the fol-
9 lowing definitions apply:

10 “(A) FEDERAL LAND.—The term ‘Federal
11 land’ means the 1 parcel of Corps of Engineers
12 land totaling approximately 84 acres, located
13 U.S. Survey No. 1838, Township 48 North,
14 Range 6 East.

15 “(B) NON-FEDERAL LAND.—The term
16 ‘non-Federal land’ means the approximately 70
17 acres of land, subject to any existing easements
18 situated in Jersey County, Illinois, adjacent to
19 existing Corps fee title land.

20 “(2) LAND EXCHANGE.—Subject to paragraph
21 (3), on conveyance by Ameren U.E. to the United
22 States of all right, title, and interest in and to the
23 non-Federal land, the Secretary shall convey to
24 Ameren U.E., all right, title, and interest of the
25 United States in and to the Federal land.

1 “(3) CONDITIONS.—

2 “(A) DEEDS.—

3 “(i) NON-FEDERAL LAND.—The con-
4 veyance of the non-Federal land to the
5 Secretary shall be by a warranty deed ac-
6 ceptable to the Secretary.

7 “(ii) FEDERAL LAND.—The convey-
8 ance of the Federal land to Ameren U.E.,
9 shall be—

10 “(I) by quitclaim deed; and

11 “(II) subject to any reservations,
12 terms, and conditions that the Sec-
13 retary determines to be necessary to
14 allow the United States to operate
15 and maintain the Mississippi River 9-
16 Foot Navigation Project.

17 “(iii) LEGAL DESCRIPTIONS.—The
18 Secretary shall provide a legal description
19 of the Federal land, and Ameren U.E.,
20 shall provide a legal description of the non-
21 Federal land, for inclusion in the deeds re-
22 ferred to in clauses (i) and (ii).

23 “(B) REMOVAL OF IMPROVEMENTS.—

24 “(i) IN GENERAL.—The Secretary
25 may require the removal of, or Ameren

1 U.E., may voluntarily remove, any im-
2 provements to the non-Federal land before
3 the completion of the exchange or as a
4 condition of the exchange.

5 “(ii) NO LIABILITY.—If Ameren U.E.,
6 removes any improvements to the non-Fed-
7 eral land under clause (i)—

8 “(I) Ameren U.E., shall have no
9 claim against the United States relat-
10 ing to the removal; and

11 “(II) the United States shall not
12 incur or be liable for any cost associ-
13 ated with the removal or relocation of
14 the improvements.

15 “(C) ADMINISTRATIVE COSTS.—The Sec-
16 retary shall require Ameren U.E. to pay reason-
17 able administrative costs associated with the ex-
18 change.

19 “(D) CASH EQUALIZATION PAYMENT.—If
20 the appraised fair market value, as determined
21 by the Secretary, of the Federal land exceeds
22 the appraised fair market value, as determined
23 by the Secretary, of the non-Federal land,
24 Ameren U.E. shall make a cash equalization
25 payment to the United States.

1 “(E) DEADLINE.—The land exchange
2 under subparagraph (B) shall be completed not
3 later than 2 years after the date of enactment
4 of this Act.”.

5 TITLE II

6 DEPARTMENT OF THE INTERIOR

7 CENTRAL UTAH PROJECT

8 CENTRAL UTAH PROJECT COMPLETION ACCOUNT

9 For carrying out activities authorized by the Central
10 Utah Project Completion Act, \$43,004,000, to remain
11 available until expended, of which \$2,500,000 shall be de-
12 posited into the Utah Reclamation Mitigation and Con-
13 servation Account for use by the Utah Reclamation Miti-
14 gation and Conservation Commission, and of which
15 \$1,694,000 for necessary expenses incurred in carrying
16 out related responsibilities of the Secretary of the Interior.
17 For fiscal year 2011, the Commission may use an amount
18 not to exceed \$1,500,000 for administrative expenses.

19 BUREAU OF RECLAMATION

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

1 WATER AND RELATED RESOURCES

2 (INCLUDING TRANSFERS OF FUNDS)

3 For management, development, and restoration of
 4 water and related natural resources and for related activi-
 5 ties, including the operation, maintenance, and rehabilita-
 6 tion of reclamation and other facilities, participation in
 7 fulfilling related Federal responsibilities to Native Ameri-
 8 cans, and related grants to, and cooperative and other
 9 agreements with, State and local governments, federally
 10 recognized Indian tribes, and others, \$938,600,000, to re-
 11 main available until expended, of which \$11,746,000 shall
 12 be available for transfer to the Upper Colorado River
 13 Basin Fund and \$8,627,000 shall be available for transfer
 14 to the Lower Colorado River Basin Development Fund;
 15 of which such amounts as may be necessary may be ad-
 16 vanced to the Colorado River Dam Fund: *Provided*, That
 17 such transfers may be increased or decreased within the
 18 overall appropriation under this heading: *Provided further*,
 19 That of the total appropriated, the amount for program
 20 activities that can be financed by the Reclamation Fund
 21 or the Bureau of Reclamation special fee account estab-
 22 lished by 16 U.S.C. 460l–6a(i) shall be derived from that
 23 Fund or account: *Provided further*, That funds contributed
 24 under 43 U.S.C. 395 are available until expended for the
 25 purposes for which contributed: *Provided further*, That

1 funds advanced under 43 U.S.C. 397a shall be credited
 2 to this account and are available until expended for the
 3 same purposes as the sums appropriated under this head-
 4 ing: *Provided*, That the funds provided herein for the St.
 5 Mary Storage Unit facilities, Milk River Project, Montana,
 6 shall be used on a nonreimbursible basis: *Provided further*,
 7 That funds available for expenditure for the Departmental
 8 Irrigation Drainage Program may be expended by the Bu-
 9 reau of Reclamation for site remediation on a nonreim-
 10 bursable basis: *Provided further*, That of the amounts pro-
 11 vided herein, funds may be used for high priority projects
 12 which shall be carried out by the Youth Conservation
 13 Corps, as authorized by 16 U.S.C. 1706.

14 CENTRAL VALLEY PROJECT RESTORATION FUND

15 For carrying out the programs, projects, plans, habi-
 16 tat restoration, improvement, and acquisition provisions of
 17 the Central Valley Project Improvement Act, \$49,915,000,
 18 to be derived from such sums as may be collected in the
 19 Central Valley Project Restoration Fund pursuant to sec-
 20 tions 3407(d), 3404(c)(3), and 3405(f) of Public Law
 21 102–575, to remain available until expended: *Provided*,
 22 That the Bureau of Reclamation is directed to assess and
 23 collect the full amount of the additional mitigation and
 24 restoration payments authorized by section 3407(d) of
 25 Public Law 102–575: *Provided further*, That none of the

1 funds made available under this heading may be used for
 2 the acquisition or leasing of water for in-stream purposes
 3 if the water is already committed to in-stream purposes
 4 by a court adopted decree or order.

5 CALIFORNIA BAY-DELTA RESTORATION
 6 (INCLUDING TRANSFERS OF FUNDS)

7 For carrying out activities authorized by the Water
 8 Supply, Reliability, and Environmental Improvement Act,
 9 consistent with plans to be approved by the Secretary of
 10 the Interior, \$40,000,000, to remain available until ex-
 11 pended, of which such amounts as may be necessary to
 12 carry out such activities may be transferred to appropriate
 13 accounts of other participating Federal agencies to carry
 14 out authorized purposes: *Provided*, That funds appro-
 15 priated herein may be used for the Federal share of the
 16 costs of CALFED Program management: *Provided fur-*
 17 *ther*, That the use of any funds provided to the California
 18 Bay-Delta Authority for programwide management and
 19 oversight activities shall be subject to the approval of the
 20 Secretary of the Interior: *Provided further*, That CALFED
 21 implementation shall be carried out in a balanced manner
 22 with clear performance measures demonstrating concur-
 23 rent progress in achieving the goals and objectives of the
 24 Program.

POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the Office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, \$61,200,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

GENERAL PROVISIONS—DEPARTMENT OF THE INTERIOR

SEC. 201. (a) None of the funds provided in title II of this Act for Water and Related Resources, or provided by previous appropriations Acts to the agencies or entities funded in title II of this Act for Water and Related Resources that remain available for obligation or expenditure in fiscal year 2011, shall be available for obligation or expenditure through a reprogramming of funds that—

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

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

(3) increases funds for any program, project, or activity for which funds have been denied or restricted by this Act, unless prior approval is received

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

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

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

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

15 (B) \$300,000 for any program, project or
16 activity for which less than \$2,000,000 is avail-
17 able at the beginning of the fiscal year;

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

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

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

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

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

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

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

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

21 SEC. 203. None of the funds appropriated or other-
22 wise made available by this or any other Act may be used
23 to pay the salaries and expenses of personnel to purchase
24 or lease water in the Middle Rio Grande or the Carlsbad
25 Projects in New Mexico unless said purchase or lease is

1 in compliance with the purchase requirements of section
2 202 of Public Law 106–60.

3 SEC. 204. Funds under this title for Drought Emer-
4 gency Assistance shall be made available primarily for
5 leasing of water for specified drought related purposes
6 from willing lessors, in compliance with existing State laws
7 and administered under State water priority allocation.

8 SEC. 205. Section 529(b)(3) of Public Law 106–541
9 is amended by striking “\$20,000,000” and inserting
10 “\$30,000,000” in lieu thereof.

11 SEC. 206. (a) Notwithstanding any other provision
12 of law, of amounts made available under section 2507 of
13 the Farm Security and Rural Investment Act of 2002 (43
14 U.S.C. 2211 note; Public Law 107–171), the Secretary
15 of the Interior, acting through the Commissioner of Rec-
16 lamation, shall allocate—

17 (1) \$11,300,000 to the Bureau of Indian Af-
18 fairs, of which—

19 (A) \$7,400,000 shall be for the participa-
20 tion by the Walker River Paiute Tribe in the
21 settlement of surface water rights in the Walker
22 River Basin, including water associated with
23 the Walker River Indian Reservation;

24 (B) \$1,000,000 shall be for the Walker
25 River Paiute Tribe for legal and professional

1 services in support of settling tribal water
2 claims in the Walker River Basin; and

3 (C) \$2,900,000 shall be for the acquisition
4 of property upstream from and adjacent to the
5 Reservation, title to which shall be taken in the
6 name of the United States to be held in trust
7 for the Tribe, and shall be added to the Res-
8 ervation and appurtenant water rights which
9 shall be used for the benefit of Walker Lake;

10 (2) \$2,500,000 to the Federal Water Master of
11 the Walker River, Nevada, for water monitoring and
12 measurement improvement in the Walker River
13 Basin;

14 (3) \$3,080,000 to the Environmental Protection
15 Agency, to provide funding relating to the Anaconda
16 Mine site in Lyon County, Nevada, of which—

17 (A) \$750,000 shall be for groundwater
18 testing for Arimetco portions of the site; and

19 (B) \$2,330,000 shall be for a pilot closure
20 of an Arimetco heap leach pad;

21 (4) \$6,250,000 to provide grants of equal
22 amounts to the State of Nevada, the State of Cali-
23 fornia, the Truckee Meadows Water Authority, the
24 Pyramid Lake Paiute Tribe, and the Federal Water
25 Master of the Truckee River to implement the

1 Truckee-Carson-Pyramid Lake Water Rights Settle-
2 ment Act (title II of Public Law 101–618; 104 Stat.
3 3294);

4 (5) \$5,000,000 to be divided equally by the City
5 of Fernley, Nevada, and the Pyramid Lake Paiute
6 Tribe for joint planning and development activities
7 for water, wastewater, and sewer facilities;

8 (6) \$17,200,000 to the Pyramid Lake Paiute
9 Tribe for the benefit of the Truckee River and Pyr-
10 amid Lake, of which—

11 (A) \$10,000,000 shall be used for 1 or
12 more of—

13 (i) implementing the 1996 Truckee
14 River Water Quality Settlement Agree-
15 ment; and

16 (ii) implementing the Newland Project
17 Water Rights Fund for retirement of
18 Truckee River water rights;

19 (B) \$4,200,000 shall be used for 1 or more
20 of—

21 (i) payment to the City of Fernley,
22 with the agreement of the City, to tempo-
23 rarily transfer water rights owned by the
24 City to the Truckee River; and

1 (ii) acquisition of ground-water rights
2 to be traded with the City of Fernley, with
3 the agreement of the City, for Truckee
4 River water rights; and

5 (C) \$3,000,000 to acquire interests in fee-
6 patented land, water rights, or surface rights to
7 land within or contiguous to the exterior bound-
8 aries of the Pyramid Lake Indian Reservation;

9 (7) \$15,000,000 to an entity selected by the
10 Truckee Meadows Water Authority, Washoe County,
11 and the cities of Reno and Sparks, Nevada, to ac-
12 quire up to 6,700 acre-feet of water rights to help
13 implement the Truckee River Operating Agreement;

14 (8) \$500,000 to Washoe County, Nevada, for a
15 Regional Strategic Initiative to develop wastewater
16 effluent management and reclaimed water resources;

17 (9) \$5,000,000 to the City of Sparks, Nevada,
18 related to upgrading and realigning the North
19 Truckee Drain for improved flood control;

20 (10) \$715,000 to the Pyramid Lake Paiute
21 Tribe to enhance fish reproduction in the Truckee
22 River watershed and to develop a water quality
23 model for Pyramid Lake;

24 (11) \$1,500,000 to the Specialty Crop Institute
25 of Western Nevada College to support alternative

1 crops and alternative agricultural cooperatives pro-
 2 grams that promote water conservation;

3 (12) \$1,000,000 to the Desert Research Insti-
 4 tute to monitor reservoir evaporation and invasive
 5 species in the southwestern United States, including
 6 work in the Walker Basin; and

7 (13) not more than \$8,455,000 of available
 8 funds to the United States Fish and Wildlife Service
 9 to acquire water and water rights, with or without
 10 the land to which the rights are appurtenant, pursu-
 11 ant to subsection 206(a) of the Truckee-Carson-Pyr-
 12 amid Lake Water Rights Settlement Act (title II of
 13 Public Law 101–618; 104 Stat. 3308).

14 (b) Section 208 of the Energy and Water Develop-
 15 ment and Related Agencies Appropriations Act, 2010
 16 (Public Law 111–85; 123 Stat. 2858) is amended—

17 (1) in subsection (a)(1)—

18 (A) by striking “\$66,200,000” and insert-
 19 ing “\$81,200,000”; and

20 (B) by inserting “, and including associ-
 21 ated activities that enhance recovery of the fed-
 22 erally threatened Lahontan cutthroat trout”
 23 after “Rivers”; and

24 (2) in subsection (b)(1)(B)—

1 (A) in clause (i)(I), after “3-year”, by in-
2 serting “or longer”; and

3 (B) by adding at the end the following:

4 “(vii) \$15,000,000 to be used as de-
5 scribed in subparagraph (A), as deter-
6 mined by the National Fish and Wildlife
7 Foundation.”.

8 (c) Section 208(a) of division C of the Consolidated
9 Appropriations Act, 2008 (Public Law 110–161; 121 Stat.
10 1953) is amended—

11 (1) in paragraph (1)—

12 (A) in subparagraph (C), by adding “and”
13 at the end;

14 (B) by striking subsections (D) and (E);
15 and

16 (C) by redesignating subparagraph (F) as
17 subparagraph (D); and

18 (2) in paragraph (3), by striking “restoration
19 efforts at the Summit Lake in Northern Washoe
20 County” and inserting “restoration and environ-
21 mental protection efforts at the Summit Lake in
22 Humboldt County”.

23 (d) Notwithstanding this section or any amendment
24 made by this section, the Commissioner of Reclamation
25 may retain sufficient amounts from funds allocated to the

1 Commissioner to administer all financial assistance agree-
2 ments under the Desert Terminal Lakes program under
3 section 2507 of the Farm Security and Rural Investment
4 Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171).

5 SEC. 207. The Secretary of the Interior may extend
6 the contract for water services between the United States
7 and the East Bench Irrigation District, numbered 14–06–
8 600–3593, until the earlier of—

9 (1) the date that is 2 years after the date on
10 which the contract would have expired if this Act
11 had not been enacted; or

12 (2) the date on which a new long-term contract
13 is executed by the parties to the contract.

14 SEC. 208. The Secretary of the Interior is hereby di-
15 rected, through the Commissioner of Reclamation, to
16 amend or re-issue Seasonal Recreation Use Permits for
17 the Northside Trailer Areas 1 and 2 and Southside Trailer
18 Area around Heart Butte Reservoir (Lake Tschida) in
19 North Dakota to extend the valid time period for those
20 permits from the current 12 years to 20 years, to be meas-
21 ured from the date of original issuance, April 3, 2010.
22 The amended or re-issued permits shall contain language
23 ensuring the affected permits are fully transferrable for
24 the full 20-year period.

1 TITLE III
2 DEPARTMENT OF ENERGY
3 ENERGY PROGRAMS
4 ENERGY EFFICIENCY AND RENEWABLE ENERGY
5 For Department of Energy expenses including the
6 purchase, construction, and acquisition of plant and cap-
7 ital equipment, and other expenses necessary for energy
8 efficiency and renewable energy activities in carrying out
9 the purposes of the Department of Energy Organization
10 Act (42 U.S.C. 7101 et seq.), including the acquisition or
11 condemnation of any real property or any facility or for
12 plant or facility acquisition, construction, or expansion,
13 \$2,287,800,000 to remain available until expended: *Pro-*
14 *vided*, That \$170,000,000 shall be available until Sep-
15 tember 20, 2012 for program direction: *Provided further*,
16 That, of the amount appropriated in this paragraph,
17 \$147,600,000 shall be used for the projects specified in
18 the table that appears under the heading “Congressionally
19 Directed Energy Efficiency and Renewable Energy
20 Projects” in the report of the Committee on Appropria-
21 tions of the United States Senate to accompany this Act.
22 ELECTRICITY DELIVERY AND ENERGY RELIABILITY
23 For Department of Energy expenses including the
24 purchase, construction, and acquisition of plant and cap-
25 ital equipment, and other expenses necessary for elec-

1 tricity delivery and energy reliability activities in carrying
2 out the purposes of the Department of Energy Organiza-
3 tion Act (42 U.S.C. 7101 et seq.), including the acquisi-
4 tion or condemnation of any real property or any facility
5 or for plant or facility acquisition, construction, or expan-
6 sion, \$190,180,000 to remain available until expended:
7 *Provided*, That \$29,049,000 shall be available until Sep-
8 tember 30, 2012 for program direction: *Provided further*,
9 That, of the amount appropriated in this paragraph,
10 \$4,250,000 shall be used for projects specified in the table
11 that appears under the heading “Congressionally Directed
12 Electricity Delivery and Energy Reliability Projects” in
13 the report of the Committee on Appropriations of the
14 United States Senate to accompany this Act: *Provided fur-*
15 *ther*, That notwithstanding section 3304 of title 5, United
16 States Code, and without regard to the provisions of sec-
17 tions 3309 through 3318 of such title 5, the Secretary
18 of Energy, upon a determination that there is a severe
19 shortage of candidates or a critical hiring need for par-
20 ticular positions, may from within the funds provided, re-
21 cruit and directly appoint highly qualified individuals into
22 the competitive service: *Provided further*, That such au-
23 thority shall not apply to positions in the Excepted Service
24 or the Senior Executive Service: *Provided further*, That
25 any action authorized herein shall be consistent with the

1 merit principles of section 2301 of such title 5, and the
2 Department shall comply with the public notice require-
3 ments of section 3327 of such title 5.

4 NUCLEAR ENERGY

5 For Department of Energy expenses including the
6 purchase, construction, and acquisition of plant and cap-
7 ital equipment, and other expenses necessary for nuclear
8 energy activities in carrying out the purposes of the De-
9 partment of Energy Organization Act (42 U.S.C. 7101 et
10 seq.), including the acquisition or condemnation of any
11 real property or any facility or for plant or facility acquisi-
12 tion, construction, or expansion, and the purchase of not
13 more than 9 buses, all for replacement only, \$783,170,000
14 to remain available until expended: *Provided*, That
15 \$91,452,000 shall be available until September 30, 2012
16 for program direction: *Provided further*, That, of the
17 amount appropriated in this paragraph, \$7,400,000 shall
18 be used for projects specified in the table that appears
19 under the heading “Congressionally Directed Nuclear En-
20 ergy Projects” in the report of the Committee on Appro-
21 priations of the United States Senate to accompany this
22 Act.

23 FOSSIL ENERGY RESEARCH AND DEVELOPMENT

24 For necessary expenses in carrying out fossil energy
25 research and development activities, under the authority

1 of the Department of Energy Organization Act (42 U.S.C.
 2 7101 et seq.), including the acquisition of interest, includ-
 3 ing defeasible and equitable interests in any real property
 4 or any facility or for plant or facility acquisition or expan-
 5 sion, and for conducting inquiries, technological investiga-
 6 tions and research concerning the extraction, processing,
 7 use, and disposal of mineral substances without objection-
 8 able social and environmental costs (30 U.S.C. 3, 1602,
 9 and 1603), \$725,950,000 to remain available until ex-
 10 pended: *Provided*, That \$170,300,000 shall be available
 11 until September 30, 2012 for program direction: *Provided*
 12 *further*, That, of the amount appropriated in this para-
 13 graph, \$19,950,000 shall be used for projects specified in
 14 the table that appears under the heading “Congressionally
 15 Directed Fossil Energy Projects” in the report of the
 16 Committee on Appropriations of the United States Senate
 17 to accompany this Act.

18 NAVAL PETROLEUM AND OIL SHALE RESERVES

19 For expenses necessary to carry out naval petroleum
 20 and oil shale reserve activities, \$23,614,000, to remain
 21 available until expended: *Provided*, That, notwithstanding
 22 any other provision of law, unobligated funds remaining
 23 from prior years shall be available for all naval petroleum
 24 and oil shale reserve activities.

1 STRATEGIC PETROLEUM RESERVE

2 For necessary expenses for Strategic Petroleum Re-
3 serve facility development and operations and program
4 management activities pursuant to the Energy Policy and
5 Conservation Act of 1975, (42 U.S.C. 6201 et seq.),
6 \$209,861,000, to remain available until expended.

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 \$11,300,000, to remain available until expended.

12 ENERGY INFORMATION ADMINISTRATION

13 For necessary expenses in carrying out the activities
14 of the Energy Information Administration, \$119,000,000,
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 \$244,163,000, to remain available until expended.

1 URANIUM ENRICHMENT DECONTAMINATION AND
2 DECOMMISSIONING FUND

3 For necessary expenses in carrying out uranium en-
4 richment facility decontamination and decommissioning,
5 remedial actions, and other activities of title II of the
6 Atomic Energy Act of 1954, and title X, subtitle A, of
7 the Energy Policy Act of 1992, \$550,000,000 to be de-
8 rived from the Uranium Enrichment Decontamination and
9 Decommissioning Fund, to remain available until ex-
10 pended.

11 SCIENCE

12 For Department of Energy expenses including the
13 purchase, construction, and acquisition of plant and cap-
14 ital equipment, and other expenses necessary for science
15 activities in carrying out the purposes of the Department
16 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
17 cluding the acquisition or condemnation of any real prop-
18 erty or facility or for plant or facility acquisition, construc-
19 tion, or expansion, and purchase of not more than 57 pas-
20 senger motor vehicles, 56 of which are for replacement
21 only, including two law enforcement vehicles, two ambu-
22 lances, and two buses, \$5,012,000,000, to remain avail-
23 able until expended: *Provided*, That \$208,000,000 shall
24 remain available until September 30, 2012 for program
25 direction: *Provided further*, That, of the amount appro-

7 For necessary expenses in carrying out the activities
8 authorized by section 5012 of the America COMPETES
9 Act (Public Law 110–69), \$200,000,000, to remain avail-
10 able until expended: *Provided*, That \$26,566,000 shall re-
11 main available until September 30, 2012 for program di-
12 rection.

15 (INCLUDING RESCISSION OF FUNDS)

•S 3635 PCS

tion that is guaranteed by the Federal Government: *Pro-*
vided further, That pursuant to section 1702(b)(2) of the
Energy Policy Act of 2005, no appropriations are available
to pay the subsidy cost of such guarantees for nuclear
power facilities: *Provided further*, That none of the loan
guarantee authority made available in this Act shall be
available for commitments to guarantee loans for any
projects where funds, personnel, or property (tangible or
intangible) of any Federal agency, instrumentality, per-
sonnel or affiliated entity are expected to be used (directly
or indirectly) through acquisitions, contracts, demonstra-
tions, exchanges, grants, incentives, leases, procurements,
sales, other transaction authority, or other arrangements,
to support the project or to obtain goods or services from
the project: *Provided further*, That the previous provision
shall not be interpreted as precluding the use of the loan
guarantee authority in this Act for commitment to guar-
antee loans for projects as a result of such projects bene-
fitting from (a) otherwise allowable Federal income tax
benefits; (b) being located on Federal land pursuant to
a lease or right-of-way agreement for which all consider-
ation for all uses is (i) paid exclusively in cash, (ii) depos-
ited in the Treasury as offsetting receipts, and (iii) equal
to the fair market value as determined by the head of the
relevant Federal agency; (c) Federal insurance programs,

1 including Price-Anderson; or (d) for electric generation
2 projects, use of transmission facilities owned or operated
3 by a Federal Power Marketing Administration or the Ten-
4 nessee Valley Authority that have been authorized, ap-
5 proved, and financed independent of the project receiving
6 the guarantee: *Provided further*, That none of the loan
7 guarantee authority made available in this Act shall be
8 available for any project unless the Director of the Office
9 of Management and Budget has certified in advance in
10 writing that the loan guarantee and the project comply
11 with the provisions under this title: *Provided further*, That
12 for the cost of loan guarantees for renewable energy under
13 section 1703 of the Energy Policy of 2005, \$380,000,000
14 is appropriated, to remain available until expended: *Pro-*
15 *vided further*, That of the authority provided for commit-
16 ments to guarantee loans under this heading in title III,
17 division C, Public Law 111–8, \$14,000,000,000 is hereby
18 rescinded: *Provided further*, That an additional amount for
19 necessary administrative expenses to carry out this Loan
20 Guarantee program, \$58,000,000 is appropriated, to re-
21 main available until expended: *Provided further*, That
22 \$58,000,000 of the fees collected pursuant to section
23 1702(h) of the Energy Policy Act of 2005 shall be credited
24 as offsetting collections to this account to cover adminis-
25 trative expenses and shall remain available until expended,

8 For administrative expenses in carrying out the Ad-
9 vanced Technology Vehicles Manufacturing Loan Pro-
10 gram, \$9,998,000, to remain available until expended.

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses not to exceed \$15,000; \$288,872,000, to remain available until September 30, 2012, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the De-

1 partment for miscellaneous revenues estimated to total
 2 \$119,740,000 in fiscal year 2011 may be retained and
 3 used for operating expenses within this account, and shall
 4 remain available until September 30, 2012, as authorized
 5 by section 201 of Public Law 95–238, notwithstanding the
 6 provisions of 31 U.S.C. 3302: *Provided further*, That the
 7 sum herein appropriated shall be reduced by the amount
 8 of miscellaneous revenues received during 2011, and any
 9 related appropriated receipt account balances remaining
 10 from prior years' miscellaneous revenues, so as to result
 11 in a final fiscal year 2011 appropriation from the general
 12 fund estimated at not more than \$169,132,000.

13 OFFICE OF THE INSPECTOR GENERAL

14 For necessary expenses of the Office of the Inspector
 15 General in carrying out the provisions of the Inspector
 16 General Act of 1978, \$42,850,000, to remain available
 17 until September 30, 2012.

18 ATOMIC ENERGY DEFENSE ACTIVITIES

19 NATIONAL NUCLEAR SECURITY

20 ADMINISTRATION

21 WEAPONS ACTIVITIES

22 For Department of Energy expenses, including the
 23 purchase, construction, and acquisition of plant and cap-
 24 ital equipment and other incidental expenses necessary for
 25 atomic energy defense weapons activities in carrying out

1 the purposes of the Department of Energy Organization
2 Act (42 U.S.C. 7101 et seq.), including the acquisition or
3 condemnation of any real property or any facility or for
4 plant or facility acquisition, construction, or expansion,
5 the purchase of not to exceed one ambulance and one air-
6 craft; \$7,018,835,000, to remain available until expended:
7 *Provided*, That of the funds appropriated under this head-
8 ing, \$30,000,000 is directed for the 09–D–007 LANSCE
9 Refurbishment, Los Alamos National Laboratory, Los Al-
10 amos, New Mexico.

11 DEFENSE NUCLEAR NONPROLIFERATION

12 For Department of Energy expenses, including the
13 purchase, construction, and acquisition of plant and cap-
14 ital equipment and other incidental expenses necessary for
15 defense nuclear nonproliferation activities, in carrying out
16 the purposes of the Department of Energy Organization
17 Act (42 U.S.C. 7101 et seq.), including the acquisition or
18 condemnation of any real property or any facility or for
19 plant or facility acquisition, construction, or expansion,
20 and the purchase of not to exceed one passenger motor
21 vehicle for replacement only, \$2,612,167,000, to remain
22 available until expended.

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 \$1,040,486,000, to remain available until expended.

6 OFFICE OF THE ADMINISTRATOR

7 (INCLUDING TRANSFER OF FUNDS)

8 For necessary expenses of the Office of the Adminis-
 9 trator in the National Nuclear Security Administration,
 10 including official reception and representation expenses
 11 not to exceed \$12,000,\$438,267,000, to remain available
 12 until September 30, 2012

13 ENVIRONMENTAL AND OTHER DEFENSE

14 ACTIVITIES

15 DEFENSE ENVIRONMENTAL CLEANUP

16 (INCLUDING TRANSFER OF FUNDS)

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 atomic
 20 energy defense environmental cleanup activities in car-
 21 rying out the purposes of the Department of Energy Orga-
 22 nization Act (42 U.S.C. 7101 et seq.), including the acqui-
 23 sition or condemnation of any real property or any facility
 24 or for plant or facility acquisition, construction, or expan-
 25 sion, and the purchase of not to exceed two ambulances

1 and one fire truck for replacement only, \$5,262,838,000,
 2 to remain available until expended, of which \$33,700,000
 3 shall be transferred to the “Uranium Enrichment Decon-
 4 tamination and Decommissioning Fund”: *Provided*, That
 5 \$355,000,000 shall remain available until September 30,
 6 2012 for program direction.

7 OTHER DEFENSE ACTIVITIES

8 For Department of Energy expenses, including the
 9 purchase, construction, and acquisition of plant and cap-
 10 ital equipment and other expenses, necessary for atomic
 11 energy defense, other defense activities, and classified ac-
 12 tivities, in carrying out the purposes of the Department
 13 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
 14 cluding the acquisition or condemnation of any real prop-
 15 erty or any facility or for plant or facility acquisition, con-
 16 struction, or expansion, and the purchase of not to exceed
 17 10 passenger motor vehicles for replacement only,
 18 \$866,317,000, to remain available until expended: *Pro-*
 19 *vided*, That \$120,244,000 shall be available until Sep-
 20 tember 30, 2012 for program direction: *Provided further*,
 21 That of the amount appropriated in this paragraph,
 22 \$2,000,000 shall be used for projects specified in the table
 23 that appears under the heading “Congressionally Directed
 24 Other Defense Activities Projects” in the report of the

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

3 POWER MARKETING ADMINISTRATION

4 BONNEVILLE POWER ADMINISTRATION FUND

5 Expenditures from the Bonneville Power Administra-
6 tion Fund, established pursuant to Public Law 93-454,
7 are approved for the Leaburg Fish Sorter, the Okanogan
8 Basin Locally Adapted Steelhead Supplementation Pro-
9 gram, and the Crystal Springs Hatchery Facilities, and,
10 in addition, for official reception and representation ex-
11 penses in an amount not to exceed \$7,000. During fiscal
12 year 2011, no new direct loan obligations may be made.

13 OPERATION AND MAINTENANCE, SOUTHEASTERN POWER
14 ADMINISTRATION

15 For necessary expenses of operation and maintenance
16 of power transmission facilities and of marketing electric
17 power and energy, including transmission wheeling and
18 ancillary services pursuant to section 5 of the Flood Con-
19 trol Act of 1944 (16 U.S.C. 825s), as applied to the south-
20 eastern power area, \$8,034,000, to remain available until
21 expended: *Provided*, That notwithstanding 31 U.S.C. 3302
22 and section 5 of the Flood Control Act of 1944, up to
23 \$8,034,000 collected by the Southeastern Power Adminis-
24 tration from the sale of power and related services shall
25 be credited to this account as discretionary offsetting col-

1 lections, to remain available until expended for the sole
 2 purpose of funding the annual expenses of the South-
 3 eastern Power Administration: *Provided further*, That the
 4 sum herein appropriated for annual expenses shall be re-
 5 duced as collections are received during the fiscal year so
 6 as to result in a final fiscal year 2011 appropriation esti-
 7 mated at not more than \$0: *Provided further*, That, not-
 8 withstanding 31 U.S.C. 3302, up to \$74,157,000 collected
 9 by the Southeastern Power Administration pursuant to
 10 the Flood Control Act of 1944 to recover purchase power
 11 and wheeling expenses shall be credited to this account
 12 as offsetting collections, to remain available until expended
 13 for the sole purpose of making purchase power and wheel-
 14 ing expenditures: *Provided further*, That for purposes of
 15 this appropriation, annual expenses means expenditures
 16 that are generally recovered in the same year that they
 17 are incurred (excluding purchase power and wheeling ex-
 18 penses).

19 OPERATION AND MAINTENANCE, SOUTHWESTERN
 20 POWER ADMINISTRATION

21 For necessary expenses of operation and maintenance
 22 of power transmission facilities and of marketing electric
 23 power and energy, for construction and acquisition of
 24 transmission lines, substations and appurtenant facilities,
 25 and for administrative expenses, including official recep-

tion and representation expenses in an amount not to exceed \$1,500 in carrying out section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the Southwestern Power Administration, \$46,312,000, to remain available until expended: *Provided*, That notwithstanding 31 U.S.C. 3302 and section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), up to \$33,613,000 collected by the Southwestern Power Administration from the sale of power and related services shall be credited to this account as discretionary offsetting collections, to remain available until expended, for the sole purpose of funding the annual expenses of the Southwestern Power Administration: *Provided further*, That the sum herein appropriated for annual expenses shall be reduced as collections are received during the fiscal year so as to result in a final fiscal year 2011 appropriation estimated at not more than \$12,699,000: *Provided further*, That, notwithstanding 31 U.S.C. 3302, up to \$39,000,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act of 1944 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures: *Provided further*, That for purposes of this appropriation, annual expenses means expenditures that are

1 generally recovered in the same year that they are in-
2 curred (excluding purchase power and wheeling expenses).

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

6 For carrying out the functions authorized by title III,
7 section 302(a)(1)(E) of the Act of August 4, 1977 (42
8 U.S.C. 7152), and other related activities including con-
9 servation and renewable resources programs as author-
10 ized, including official reception and representation ex-
11 penses in an amount not to exceed \$1,500; \$285,864,000
12 to remain available until expended, of which \$277,430,000
13 shall be derived from the Department of the Interior Rec-
14 lamation Fund: *Provided*, That notwithstanding 31 U.S.C.
15 3302, section 5 of the Flood Control Act of 1944 (16
16 U.S.C. 825s), and section 1 of the Interior Department
17 Appropriation Act, 1939 (43 U.S.C. 392a), up to
18 \$180,306,000 collected by the Western Area Power Ad-
19 ministration from the sale of power and related services
20 shall be credited to this account as discretionary offsetting
21 collections, to remain available until expended, for the sole
22 purpose of funding the annual expenses of the Western
23 Area Power Administration: *Provided further*, That the
24 sum herein appropriated for annual expenses shall be re-
25 duced as collections are received during the fiscal year so

1 as to result in a final fiscal year 2011 appropriation esti-
 2 mated at not more than \$105,558,000, of which
 3 \$97,124,000 is derived from the Reclamation Fund: *Pro-*
 4 *vided further*, That of the amount herein appropriated,
 5 \$7,627,000 is for deposit into the Utah Reclamation Miti-
 6 gation and Conservation Account pursuant to title IV of
 7 the Reclamation Projects Authorization and Adjustment
 8 Act of 1992: *Provided further*, That notwithstanding 31
 9 U.S.C. 3302, up to \$350,919,000 collected by the Western
 10 Area Power Administration pursuant to the Flood Control
 11 Act of 1944 and the Reclamation Project Act of 1939 to
 12 recover purchase power and wheeling expenses shall be
 13 credited to this account as offsetting collections, to remain
 14 available until expended for the sole purpose of making
 15 purchase power and wheeling expenditures: *Provided fur-*
 16 *ther*, That for purposes of this appropriation, annual ex-
 17 penses means expenditures that are generally recovered in
 18 the same year that they are incurred (excluding purchase
 19 power and wheeling expenses).

20 FALCON AND AMISTAD OPERATING AND MAINTENANCE
 21 FUND

22 For operation, maintenance, and emergency costs for
 23 the hydroelectric facilities at the Falcon and Amistad
 24 Dams, \$3,715,000, to remain available until expended,
 25 and to be derived from the Falcon and Amistad Operating

1 and Maintenance Fund of the Western Area Power Ad-
 2 ministration, as provided in section 2 of the Act of June
 3 18, 1954 (68 Stat. 255): *Provided*, That notwithstanding
 4 the provisions of that Act and of 31 U.S.C. 3302, up to
 5 \$3,495,000 collected by the Western Area Power Adminis-
 6 tration from the sale of power and related services from
 7 the Falcon and Amistad Dams shall be credited to this
 8 account as discretionary offsetting collections, to remain
 9 available until expended for the sole purpose of funding
 10 the annual expenses of the hydroelectric facilities of these
 11 Dams and associated Western Area Power Administration
 12 activities: *Provided further*, That the sum herein appro-
 13 priated for annual expenses shall be reduced as collections
 14 are received during the fiscal year so as to result in a final
 15 fiscal year 2011 appropriation estimated at not more than
 16 \$220,000: *Provided further*, That for purposes of this ap-
 17 propriation, annual expenses means expenditures that are
 18 generally recovered in the same year that they are in-
 19 curred.

20 FEDERAL ENERGY REGULATORY COMMISSION

21 SALARIES AND EXPENSES

22 For necessary expenses of the Federal Energy Regu-
 23 latory Commission to carry out the provisions of the De-
 24 partment of Energy Organization Act (42 U.S.C. 7101 et
 25 seq.), including services as authorized by 5 U.S.C. 3109,

1 the hire of passenger motor vehicles, and official reception
 2 and representation expenses not to exceed
 3 \$3,000,\$315,600,000, to remain available until expended:
 4 *Provided*, That notwithstanding any other provision of
 5 law, not to exceed \$315,600,000 of revenues from fees and
 6 annual charges, and other services and collections in fiscal
 7 year 2011 shall be retained and used for necessary ex-
 8 penses in this account, and shall remain available until
 9 expended: *Provided further*, That the sum herein appro-
 10 priated from the general fund shall be reduced as revenues
 11 are received during fiscal year 2011 so as to result in a
 12 final fiscal year 2011 appropriation from the general fund
 13 estimated at not more than \$0.

14 GENERAL PROVISIONS—DEPARTMENT OF
 15 ENERGY

16 SEC. 301. (a) None of the funds provided in this title
 17 shall be available for obligation or expenditure through a
 18 reprogramming of funds that—

- 19 (1) creates or initiates a new program, project,
 20 or activity;
- 21 (2) eliminates a program, project, or activity;
- 22 (3) increases funds or personnel for any pro-
 23 gram, project, or activity for which funds are denied
 24 or restricted by this Act;

1 (4) reduces funds that are directed to be used
2 for a specific program, project, or activity by this
3 Act;

4 (5) increases funds for any program, project, or
5 activity by more than \$5,000,000 or 10 percent,
6 whichever is less; or

7 (6) reduces funds for any program, project, or
8 activity by more than \$5,000,000 or 10 percent,
9 whichever is less;

10 (b) The Secretary of Energy may waive this restric-
11 tion on reprogramming under subsection (a) for reasons
12 of national security, safety and health, environmental risk,
13 or to accomplish project completion. In instances involving
14 the National Nuclear Security Administration, the Sec-
15 retary and the Administrator must jointly waive the re-
16 striction.

17 SEC. 302. None of the funds made available in this
18 title may be used to prepare or initiate Requests For Pro-
19 posals (RFPs) or similar arrangements (including but not
20 limited to: Requests for Quotations (RFQs), Requests for
21 Information (RFIs), Funding Opportunity Announce-
22 ments (FOAs), etc.) for a program or activity if the pro-
23 gram or activity has not been funded by Congress.

24 SEC. 303. None of the funds appropriated by this Act
25 may be used—

1 (1) to augment the funds made available for ob-
2 ligation by this Act for severance payments and
3 other benefits and community assistance grants
4 under section 4604 of the Atomic Energy Defense
5 Act (50 U.S.C. 2704) unless the Department of En-
6 ergy submits a reprogramming request to the appro-
7 priate congressional committees; or

8 (2) to provide enhanced severance payments or
9 other benefits for employees of the Department of
10 Energy under such section; or

11 (3) develop or implement a workforce restruc-
12 turing plan that covers employees of the Department
13 of Energy.

14 SEC. 304. The unexpended balances of prior appro-
15 priations provided for activities in this Act may be avail-
16 able to the same appropriation accounts for such activities
17 established pursuant to this title. Available balances may
18 be merged with funds in the applicable established ac-
19 counts and thereafter may be accounted for as one fund
20 for the same time period as originally enacted.

21 SEC. 305. Funds appropriated by this or any other
22 Act, or made available by the transfer of funds in this
23 Act, for intelligence activities are deemed to be specifically
24 authorized by the Congress for purposes of section 504
25 of the National Security Act of 1947 (50 U.S.C. 414) dur-

1 ing fiscal year 2011 until the enactment of the Intelligence
2 Authorization Act for fiscal year 2011.

3 SEC. 306. (a) In any fiscal year in which the Sec-
4 retary of Energy determines that additional funds are
5 needed to reimburse the costs of defined benefit pension
6 plans for contractor employees, the Secretary may transfer
7 not more than 1 percent from each appropriation made
8 available in this and subsequent Energy and Water Devel-
9 opment Appropriation Acts to any other appropriation
10 available to the Secretary in the same Act for such reim-
11 bursements.

12 (b) Where the Secretary recovers the costs of defined
13 benefit pension plans for contractor employees through
14 charges for the indirect costs of research and activities at
15 facilities of the Department of Energy, if the indirect costs
16 attributable to defined benefit pension plan costs in a fis-
17 cal year are more than charges in fiscal year 2008, the
18 Secretary shall carry out a transfer of funds under this
19 section.

20 (c) In carrying out a transfer under this section, the
21 Secretary shall use each appropriation made available to
22 the Department in that fiscal year as a source for the
23 transfer, and shall reduce each appropriation by an equal
24 percentage, except that appropriations for which the Sec-
25 retary determines there exists a need for additional funds

1 for pension plan costs in that fiscal year, as well as appro-
2 priations made available for the Power Marketing Admin-
3 istrations, the title XVII loan guarantee program, and the
4 Federal Energy Regulatory Commission, shall not be sub-
5 ject to this requirement.

6 (d) Each January, the Secretary shall report to the
7 Committees on Appropriations of the House of Represent-
8 atives and the Senate on the state of defined benefit pen-
9 sion plan liabilities in the Department for the preceding
10 year.

11 (e) This transfer authority does not apply to supple-
12 mental appropriations, and is in addition to any other
13 transfer authority provided in this or any other Act. The
14 authority provided under this section shall expire on Sep-
15 tember 30, 2015.

16 (f) The Secretary shall notify the Committees on Ap-
17 propriations of the House of Representatives and the Sen-
18 ate in writing not less than 30 days in advance of each
19 transfer authorized by this section.

20 SEC. 307. Plant or construction projects for which
21 amounts are made available under this and subsequent ap-
22 propriation Acts with a current estimated cost of less than
23 \$10,000,000 are considered for purposes of section 4703
24 of Public Law 107–314 as a plant project for which the
25 approved total estimated cost does not exceed the minor

1 construction threshold and for purposes of section 4704
2 of Public Law 107–314 as a construction project with a
3 current estimated cost of less than a minor construction
4 threshold.

5 SEC. 308. None of the funds made available by this
6 Act may be used to make a grant allocation, discretionary
7 grant award, discretionary contract award, Other Trans-
8 action Agreement, or to issue a letter of intent totaling
9 in excess of \$1,000,000, or to announce publicly the inten-
10 tion to make such an award, including a contract covered
11 by the Federal Acquisition Regulation, unless the Sec-
12 retary of Energy notifies the Committees on Appropria-
13 tions of the Senate and the House of Representatives at
14 least 3 full business days in advance of making such an
15 award or issuing such a letter: *Provided*, That if the Sec-
16 retary of the Department of Energy determines that com-
17 pliance with this section would pose a substantial risk to
18 human life, health, or safety, an award may be made with-
19 out notification and the Committees on Appropriations of
20 the Senate and the House of Representatives shall be noti-
21 fied not later than 5 full business days after such an
22 award is made or letter issued: *Provided further*, That pur-
23 chases of power or transmission services made by the fed-
24 eral Power Marketing Administrations shall not be subject
25 to the notification requirements of this section.

1 SEC. 309. (a) Notwithstanding any other provision
2 of law, no funds appropriated in this Act, or any other
3 act, may be used in fiscal year 2011 to transfer, sell, bar-
4 ter, distribute, or otherwise provide more than 3.3 million
5 pounds of natural uranium equivalent of uranium in any
6 form from the Department's inventory.

7 (b) Any transfer, sale, barter, distribution, or other
8 provision of uranium in any form under subsection (a)
9 shall be carried out consistent with the Department's Ex-
10 cess Uranium Inventory Management Plan, dated Decem-
11 ber 16, 2008.

12 (c) The prohibition in subsection (a) shall not apply
13 to the transfer, sale, barter, distribution, or provision of
14 uranium in any form for use in initial reactor cores.

15 (d) Not less than 30 days prior to the provision of
16 uranium in any form in accordance with this section, the
17 Secretary shall notify the House and Senate Committees
18 on Appropriations, including:

- 19 (1) the amount of uranium to be bartered;
20 (2) the estimated market value of the uranium;
21 (3) the expected date of provision of the ura-
22 nium; and
23 (4) the recipient of the uranium.

24 SEC. 310. None of the funds made a available in this
25 title may be used to make a final or conditional loan guar-

1 antee award unless the Secretary of Energy provides noti-
 2 fication of the award, including the proposed subsidy cost,
 3 to the Committees on Appropriations of the Senate and
 4 the House of Representatives at least 3 full business days
 5 in advance of such award.

6 TITLE IV

7 INDEPENDENT AGENCIES

8 APPALACHIAN REGIONAL COMMISSION

9 For expenses necessary to carry out the programs au-
 10 thorized by the Appalachian Regional Development Act of
 11 1965, for necessary expenses for the Federal Co-Chairman
 12 and the Alternate on the Appalachian Regional Commis-
 13 sion, for payment of the Federal share of the administra-
 14 tive expenses of the Commission, including services as au-
 15 thorized by 5 U.S.C. 3109, and hire of passenger motor
 16 vehicles, \$76,000,000, to remain available until expended.

17 DEFENSE NUCLEAR FACILITIES SAFETY BOARD

18 SALARIES AND EXPENSES

19 For necessary expenses of the Defense Nuclear Fa-
 20 cilities Safety Board in carrying out activities authorized
 21 by the Atomic Energy Act of 1954, as amended by Public
 22 Law 100–456, section 1441, \$26,086,000, to remain
 23 available until expended.

1 DELTA REGIONAL AUTHORITY

2 SALARIES AND EXPENSES

3 For necessary expenses of the Delta Regional Author-
4 ity and to carry out its activities, as authorized by the
5 Delta Regional Authority Act of 2000, notwithstanding
6 sections 382C(b)(2), 382F(d), 382M, and 382N of said
7 Act, \$13,000,000, to remain available until expended.

8 DENALI COMMISSION

9 For expenses of the Denali Commission including the
10 purchase, construction, and acquisition of plant and cap-
11 ital equipment as necessary and other expenses,
12 \$11,965,000, to remain available until expended, notwith-
13 standing the limitations contained in section 306(g) of the
14 Denali Commission Act of 1998: *Provided*, That funds
15 shall be available for construction projects in an amount
16 not to exceed 80 percent of total project cost for distressed
17 communities, as defined by section 307 of the Denali Com-
18 mission Act of 1998 (division C, title III, Public Law 105–
19 277), as amended by section 701 of appendix D, title VII,
20 Public Law 106–113 (113 Stat. 1501A–280), and an
21 amount not to exceed 50 percent for nondistressed com-
22 munities.

1 NUCLEAR REGULATORY COMMISSION

2 SALARIES AND EXPENSES

3 For necessary expenses of the Commission in car-
4 rying out the purposes of the Energy Reorganization Act
5 of 1974 and the Atomic Energy Act of 1954, including
6 official representation expenses (not to exceed \$25,000),
7 \$1,053,483,000, to remain available until expended: *Pro-*
8 *vided*, That of the amount appropriated herein,
9 \$10,000,000 shall be derived from the Nuclear Waste
10 Fund: *Provided further*, That revenues from licensing fees,
11 inspection services, and other services and collections esti-
12 mated at \$915,220,000 in fiscal year 2011 shall be re-
13 tained and used for necessary salaries and expenses in this
14 account, notwithstanding 31 U.S.C. 3302, and shall re-
15 main available until expended: *Provided further*, That the
16 sum herein appropriated shall be reduced by the amount
17 of revenues received during fiscal year 2011 so as to result
18 in a final fiscal year 2011 appropriation estimated at not
19 more than \$138,263,000: *Provided further*, That of the
20 amounts appropriated, \$10,000,000 is provided to support
21 university research and development in areas relevant to
22 their respective organization's mission, and \$5,000,000 is
23 to support a Nuclear Science and Engineering Grant Pro-
24 gram that will support multiyear projects that do not align

1 with programmatic missions but are critical to maintain-
2 ing the discipline of nuclear science and engineering.

3 OFFICE OF THE INSPECTOR GENERAL

4 For necessary expenses of the Office of Inspector
5 General in carrying out the provisions of the Inspector
6 General Act of 1978, as amended, \$10,860,000, to remain
7 available until expended: *Provided*, That revenues from li-
8 censing fees, inspection services, and other services and
9 collections estimated at \$9,774,000 in fiscal year 2011
10 shall be retained and be available until expended, for nec-
11 essary salaries and expenses in this account, notwith-
12 standing 31 U.S.C. 3302: *Provided further*, That the sum
13 herein appropriated shall be reduced by the amount of rev-
14 enues received during fiscal year 2011 so as to result in
15 a final fiscal year 2011 appropriation estimated at not
16 more than \$1,086,000.

17 NUCLEAR WASTE TECHNICAL REVIEW BOARD

18 SALARIES AND EXPENSES

19 For necessary expenses of the Nuclear Waste Tech-
20 nical Review Board, as authorized by Public Law 100-
21 203, section 5051, \$3,891,000, to be derived from the Nu-
22 clear Waste Fund, and to remain available until expended.

1 OFFICE OF THE FEDERAL COORDINATOR FOR ALASKA
2 NATURAL GAS TRANSPORTATION PROJECTS

3 For necessary expenses for the Office of the Federal
4 Coordinator for Alaska Natural Gas Transportation
5 Projects pursuant to the Alaska Natural Gas Pipeline Act
6 of 2004, \$4,285,000 until expended: *Provided*, That any
7 fees, charges, or commissions received pursuant to section
8 802 of Public Law 110–140 in fiscal year 2011 in excess
9 of \$4,683,000 shall not be available for obligation until
10 appropriated in a subsequent Act of Congress.

11 TITLE V
12 GENERAL PROVISIONS

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

19 SEC. 502. None of the funds made available in this
20 Act may be transferred to any department, agency, or in-
21 strumentality of the United States Government, except
22 pursuant to a transfer made by, or transfer authority pro-
23 vided in this Act or any other appropriation Act.

1 This Act may be cited as the “Energy and Water De-
2 velopment and Related Agencies Appropriations Act,
3 2011”.

Calendar No. 478

111TH CONGRESS
2^D Session

S. 3635

[Report No. 111-228]

A BILL

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2011, and for other purposes.

JULY 22, 2010

Read twice and placed on the calendar