

Senator BAUCUS, and the other members of the Democratic trade staff: Shara Aranoff, Demetrios Marantis, Anya Landau, Janis Lazda, and Chelsea Thomas.

Finally, I want to identify two people for special recognition. The first is Polly Craighill, senior counsel in the Senate's Office of Legislative Counsel. Her dedication to the Senate is profound. The Finance Committee benefits greatly from Ms. Craighill's expertise in legislative drafting, her tireless efforts, and her constructive perfectionism. Today's vote is in no small part a testament to her skills. I also want to extend my deep gratitude to Jeanne Grimmer, legislative attorney in the American Law Division of the Congressional Research Service. My staff and I repeatedly called upon Ms. Grimmer to prepare legal research and memoranda in connection with our development of this legislation, and her timely support was instrumental to our success today. I am very grateful.

I look forward to the enactment of this legislation and hope that President Bush will sign it into law very soon.

Mr. FRIST. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### SENATOR BURR RECEIVES THE GOLDEN GAVEL AWARD

Mr. FRIST. Mr. President, I wish to acknowledge an important feat of one of our Members. At 10 o'clock this evening, the distinguished Presiding Officer, the Senator from North Carolina, Mr. BURR, reached his 100th hour of presiding. I should clarify that it is 100 hours since the beginning of this year. I know sometimes it has probably felt like he has presided 100 hours in a week.

The reason this is important, according to the Senate Historian, is this is the fastest time in reaching the 100-hour mark since presiding records have been kept.

(Applause.)

Senator BURR will be the first Senator in the 109th Congress to receive the Golden Gavel Award. Most Members recognize that sitting in that chair is the best way to learn Senate procedure. He has done so with distinction and honor. He has done so with a firm but fair gavel. In addition to his regular presiding times, he has been here on many Mondays and Fridays, when a lot of us are at home and elsewhere. We thank him for that. We owe a debt of gratitude to him for doing that, and we thank him and congratulate him on this outstanding achievement.

(Applause.)

Mr. REID. Mr. President, if I may comment. The reason I like Senator BURR so much is because he pays attention while he presides. I am impressed with that.

#### ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2006

Mr. FRIST. Mr. President, at this juncture, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 130, H.R. 2419, the Energy and Water appropriations bill. I further ask that the committee substitute amendment be agreed to and considered as original text for the purpose of further amendment, with no points of order waived by this agreement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2419) making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with an amendment.

(Strike the part shown in black brackets and insert the part shown in italic.)

#### H.R. 2419

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

[That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, for energy and water development, and for other purposes, namely:

#### [TITLE I

##### [CORPS OF ENGINEERS—CIVIL

##### [DEPARTMENT OF THE ARMY

##### [CORPS OF ENGINEERS—CIVIL

[The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood and storm damage reduction, aquatic ecosystem restoration, and related purposes.

##### [GENERAL INVESTIGATIONS

[For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood and storm damage reduction, aquatic ecosystem restoration, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by law, surveys and detailed studies and plans and specifications of projects prior to construction, \$100,000,000 to remain available until expended: *Provided*, That, except as provided in section 101 of this Act, the amounts made available under this paragraph shall be expended as authorized in law for the projects and activities specified in the report accompanying this Act.

##### [CONSTRUCTION

[For expenses necessary for the construction of river and harbor, flood and storm damage reduction, 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 construc-

tion); and for the benefit of federally listed species to address the effects of civil works projects owned or operated by the United States Army Corps of Engineers, \$1,763,000,000, 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 \$182,668,000, pursuant to Public Law 99-662, shall be derived from the Inland Waterways Trust Fund, to cover one-half of the costs of construction and rehabilitation of inland waterways projects; and of which \$4,000,000 shall be exclusively for projects and activities authorized under section 107 of the River and Harbor Act of 1960; and of which \$500,000 shall be exclusively for projects and activities authorized under section 111 of the River and Harbor Act of 1968; and of which \$1,000,000 shall be exclusively for projects and activities authorized under section 103 of the River and Harbor Act of 1962; and of which \$25,000,000 shall be exclusively available for projects and activities authorized under section 205 of the Flood Control Act of 1948; and of which \$8,000,000 shall be exclusively for projects and activities authorized under section 14 of the Flood Control Act of 1946; and of which \$400,000 shall be exclusively for projects and activities authorized under section 208 of the Flood Control Act of 1954; and of which \$17,400,000 shall be exclusively for projects and activities authorized under section 1135 of the Water Resources Development Act of 1986; and of which \$18,000,000 shall be exclusively for projects and activities authorized under section 206 of the Water Resources Act of 1996; and of which \$4,000,000 shall be exclusively for projects and activities authorized under section 204 of the Water Resources Act of 1992: *Provided*, That, except as provided in section 101 of this Act, the amounts made available under this paragraph shall be expended as authorized in law for the projects and activities specified in the report accompanying this Act.

[In addition, \$137,000,000 shall be available for projects and activities authorized under 16 U.S.C. 410-r-8 and section 601 of Public Law 106-541.

[FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

[For expenses necessary for the flood damage reduction program for the Mississippi River alluvial valley below Cape Girardeau, Missouri, as authorized by law, \$290,000,000 to remain available until expended, of which such sums as are necessary to cover the Federal share of operation and maintenance costs for inland harbors shall be derived from the Harbor Maintenance Trust Fund: *Provided*, That, except as provided in section 101 of this Act, the amounts made available under this paragraph shall be expended as authorized in law for the projects and activities specified in the report accompanying this Act.

##### [OPERATION AND MAINTENANCE

[For expenses necessary for the operation, maintenance, and care of existing river and harbor, flood and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law; for the benefit of federally listed species to address the effects of civil works projects owned or operated by the United States Army Corps of Engineers (the "Corps"); for providing security for infrastructure owned and operated by, or on behalf of, the Corps, including administrative buildings and facilities, laboratories, and the Washington Aqueduct; for the maintenance of harbor channels provided by a

State, municipality, or other public agency that serve essential navigation needs of general commerce, where authorized by law; and for surveys and charting of northern and northwestern lakes and connecting waters, clearing and straightening channels, and removal of obstructions to navigation, \$2,000,000,000 to remain available until expended, of which such sums to cover the Federal share of operation and maintenance costs for coastal harbors and channels, and inland harbors shall be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662 may be derived from that fund; of which such sums as become available from the special account for the Corps established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601-6a(i)), may be derived from that account for resource protection, research, interpretation, and maintenance activities related to resource protection in the areas at which outdoor recreation is available; and of which such sums as become available under section 217 of the Water Resources Development Act of 1996, Public Law 104-303, shall be used to cover the cost of operation and maintenance of the dredged material disposal facilities for which fees have been collected: *Provided*, That, except as provided in section 101 of this Act, the amounts made available under this paragraph shall be expended as authorized in law for the projects and activities specified in the report accompanying this Act.

#### REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, \$160,000,000, to remain available until expended.

#### FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

For expenses necessary to clean up contamination from sites in the United States resulting from work performed as part of the Nation's early atomic energy program, \$140,000,000, to remain available until expended.

#### GENERAL EXPENSES

For expenses necessary for general administration and related civil works functions in the headquarters of the United States Army Corps of Engineers, the offices of the Division Engineers, 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, \$152,021,000 to remain available until expended: *Provided*, That no part of any other appropriation provided in 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 expenses necessary for the Office of Assistant Secretary of the Army (Civil Works), as authorized by 10 U.S.C. 3016(b)(3), \$4,000,000.

#### ADMINISTRATIVE PROVISION

Appropriations in this title shall be available for official reception and representation expenses not to exceed \$5,000; and during the current fiscal year the Revolving Fund, Corps of Engineers, shall be available for purchase not to exceed 100 for replacement only and hire of passenger motor vehicles.

#### GENERAL PROVISIONS

##### CORPS OF ENGINEERS—CIVIL

SEC. 101. (a) None of the funds provided in title I of this Act shall be available for obli-

gation or expenditure through a reprogramming of funds that—

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

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

(3) increases funds or personnel for any program, project, or activity for which funds are denied or restricted by this Act;

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

(5) increases funds for any program, project, or activity by more than \$2,000,000 or 10 percent, whichever is less; or

(6) reduces funds for any program, project, or activity by more than \$2,000,000 or 10 percent, whichever is less.

(b) Subsection (a)(1) shall not apply to any project or activity authorized under section 205 of the Flood Control Act of 1948, section 14 of the Flood Control Act of 1946, section 208 of the Flood Control Act of 1954, section 107 of the River and Harbor Act of 1960, section 103 of the River and Harbor Act of 1962, section 111 of the River and Harbor Act of 1968, section 1135 of the Water Resources Development Act of 1986, section 206 of the Water Resources Act of 1996, or section 204 of the Water Resources Act of 1992.

SEC. 102. None of the funds appropriated in this Act may be used by the United States Army Corps of Engineers to support activities related to the proposed Ridge Landfill in Tuscarawas County, Ohio.

SEC. 103. None of the funds appropriated in this Act may be used by the United States Army Corps of Engineers to support activities related to the proposed Indian Run Sanitary Landfill in Sandy Township, Stark County, Ohio.

SEC. 104. After February 6, 2006, none of the funds made available in title I of this Act may be used to award any continuing contract or to make modifications to any existing continuing contract that obligates the United States Government during fiscal year 2007 to make payment under such contract for any project that is proposed for deferral or suspension in fiscal year 2007 in the materials prepared by the Assistant Secretary of the Army (Civil Works) for that fiscal year pursuant to provisions of chapter 11 of title 31, United States Code.

SEC. 105. None of the funds made available in title I of this Act may be used to award any continuing contract or to make modifications to any existing continuing contract that reserves an amount for a project in excess of the amount appropriated for such project pursuant to this Act.

SEC. 106. None of the funds in title I of this Act shall be available for the rehabilitation and lead and asbestos abatement of the dredge McFarland: *Provided*, That amounts provided in title I of this Act are hereby reduced by \$18,630,000.

SEC. 107. None of the funds in this Act may be expended by the Secretary of the Army to construct the Port Jersey element of the New York and New Jersey Harbor or to reimburse the local sponsor for the construction of the Port Jersey element until commitments for construction of container handling facilities are obtained from the non-Federal sponsor for a second user along the Port Jersey element.

#### TITLE II

##### DEPARTMENT OF THE INTERIOR

##### CENTRAL UTAH PROJECT

##### CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, \$32,614,000, to remain available until expended, of which \$946,000 shall be deposited

into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, \$1,736,000, to remain available until expended.

#### BUREAU OF RECLAMATION

##### WATER AND RELATED RESOURCES

##### (INCLUDING TRANSFER OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian tribes, and others, \$832,000,000, to remain available until expended, of which \$55,544,000 shall be available for transfer to the Upper Colorado River Basin Fund and \$21,998,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; of which not more than \$500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706: *Provided*, That such transfers may be increased or decreased within the overall appropriation under this heading: *Provided further*, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 4601-6a(i) shall be derived from that Fund or account: *Provided further*, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: *Provided further*, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: *Provided further*, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis.

##### CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, \$52,219,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102-575, to remain available until expended: *Provided*, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575: *Provided further*, That none of the funds made available under this heading may be used for the acquisition or leasing of water for in-stream purposes if the water is already committed to in-stream purposes by a court adopted decree or order.

##### CALIFORNIA BAY-DELTA RESTORATION

##### (INCLUDING TRANSFER OF FUNDS)

For carrying out activities authorized by the Calfed Bay Delta Authorization Act, consistent with plans to be approved by the Secretary of the Interior, \$35,000,000, to remain available until expended, of which such amounts as may be necessary to carry out

such activities may be transferred to appropriate accounts of other participating Federal agencies to carry out authorized purposes: *Provided*, That funds appropriated herein may be used for the Federal share of the costs of CALFED Program management: *Provided further*, That the use of any funds provided to the California Bay-Delta Authority for program-wide management and oversight activities shall be subject to the approval of the Secretary of the Interior: *Provided further*, That CALFED implementation shall be carried out in a balanced manner with clear performance measures demonstrating concurrent progress in achieving the goals and objectives of the Program.

#### [POLICY AND ADMINISTRATION]

[For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, \$57,917,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

#### [ADMINISTRATIVE PROVISION]

[Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 14 passenger motor vehicles, of which 11 are for replacement only.

#### [GENERAL PROVISIONS]

##### [DEPARTMENT OF THE INTERIOR]

[SEC. 201. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

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

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

[SEC. 203. (a) Section 1(a) of the Lower Colorado Water Supply Act (Public Law 99-655) is amended by adding at the end the following: "The Secretary is authorized to enter into an agreement or agreements with the city of Needles or the Imperial Irrigation District for the design and construction of the remaining stages of the Lower Colorado Water Supply Project on or after November

1, 2004, and the Secretary shall ensure that any such agreement or agreements include provisions setting forth: (1) the responsibilities of the parties to the agreement for design and construction; (2) the locations of the remaining wells, discharge pipelines, and power transmission lines; (3) the remaining design capacity of up to 5,000 acre-feet per year which is the authorized capacity less the design capacity of the first stage constructed; (4) the procedures and requirements for approval and acceptance by the Secretary of the remaining stages, including approval of the quality of construction, measures to protect the public health and safety, and procedures for protection of such stages; (5) the rights, responsibilities, and liabilities of each party to the agreement; and (6) the term of the agreement."

[(b) Section 2(b) of the Lower Colorado Water Supply Act (Public Law 99-655) is amended by adding at the end the following: "Subject to the demand of such users along or adjacent to the Colorado River for Project water, the Secretary is further authorized to contract with additional persons or entities who hold Boulder Canyon Project Act section 5 contracts for municipal and industrial uses within the State of California for the use or benefit of Project water under such terms as the Secretary determines will benefit the interest of Project users along the Colorado River."

#### [TITLE III]

##### [DEPARTMENT OF ENERGY]

##### [ENERGY PROGRAMS]

##### [ENERGY SUPPLY AND CONSERVATION]

[For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for energy supply and energy conservation activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$1,762,888,000 (increased by \$1,000,000), to remain available until expended.

##### [CLEAN COAL TECHNOLOGY]

##### [(DEFERRAL)]

[Of the funds made available under this heading for obligation in prior years, \$257,000,000 shall not be available until October 1, 2006: *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]

[For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, the hire of passenger motor vehicles, the hire, maintenance, and operation of aircraft, the purchase, repair, and cleaning of uniforms, the reimbursement to the General Services Administration for security guard services, and for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), \$502,467,000, to remain available until expended, of which \$18,000,000 is to continue a multi-year project coordinated with the private sector for FutureGen, without regard to the terms and

conditions applicable to clean coal technological projects: *Provided*, That the initial planning and research stages of the FutureGen project shall include a matching requirement from non-Federal sources of at least 20 percent of the costs: *Provided further*, That any demonstration component of such project shall require a matching requirement from non-Federal sources of at least 50 percent of the costs of the component: *Provided further*, That of the amounts provided, \$50,000,000 is available, after coordination with the private sector, for a request for proposals for a Clean Coal Power Initiative providing for competitively-awarded research, development, and demonstration projects to reduce the barriers to continued and expanded coal use: *Provided further*, That no project may be selected for which sufficient funding is not available to provide for the total project: *Provided further*, That funds shall be expended in accordance with the provisions governing the use of funds contained under the heading "Clean Coal Technology" in 42 U.S.C. 5903d as well as those contained under the heading "Clean Coal Technology" in prior appropriations: *Provided further*, That the Department may include provisions for repayment of Government contributions to individual projects in an amount up to the Government contribution to the project on terms and conditions that are acceptable to the Department including repayments from sale and licensing of technologies from both domestic and foreign transactions: *Provided further*, That such repayments shall be retained by the Department for future coal-related research, development and demonstration projects: *Provided further*, That any technology selected under this program shall be considered a Clean Coal Technology, and any project selected under this program shall be considered a Clean Coal Technology Project, for the purposes of 42 U.S.C. 7651n, and chapters 51, 52, and 60 of title 40 of the Code of Federal Regulations: *Provided further*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: *Provided further*, That up to 4 percent of program direction funds available to the National Energy Technology Laboratory may be used to support Department of Energy activities not included in this account: *Provided further*, That the Secretary of Energy is authorized to accept fees and contributions from public and private sources, to be deposited in a contributed funds account, and prosecute projects using such fees and contributions in cooperation with other Federal, State, or private agencies or concerns: *Provided further*, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under the Fossil Energy Research and Development account may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements.

##### [NAVAL PETROLEUM AND OIL SHALE RESERVES]

[For expenses necessary to carry out naval petroleum and oil shale reserve activities, including the hire of passenger motor vehicles, \$18,500,000, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, unobligated funds remaining from prior years shall be available for all naval petroleum and oil shale reserve activities.

##### [ELK HILLS SCHOOL LANDS FUND]

[For necessary expenses in fulfilling installment payments under the Settlement

Agreement entered into by the United States and the State of California on October 11, 1996, as authorized by section 3415 of Public Law 104-106, \$48,000,000, for payment to the State of California for the State Teachers' Retirement Fund, of which \$46,000,000 will be derived from the Elk Hills School Lands Fund.

#### [STRATEGIC PETROLEUM RESERVE]

[For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), including the hire of passenger motor vehicles, the hire, maintenance, and operation of aircraft, the purchase, repair, and cleaning of uniforms, the reimbursement to the General Services Administration for security guard services, \$166,000,000, to remain available until expended.

#### [ENERGY INFORMATION ADMINISTRATION]

[For necessary expenses in carrying out the activities of the Energy Information Administration, \$86,426,000, to remain available until expended.

#### [NON-DEFENSE ENVIRONMENTAL CLEANUP]

[For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental cleanup activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed six passenger motor vehicles, of which five shall be for replacement only, \$319,934,000, to remain available until expended.

#### [URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND]

[For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions, and other activities of title II of the Atomic Energy Act of 1954, as amended, and title X, subtitle A, of the Energy Policy Act of 1992, \$591,498,000, to be derived from the Fund, to remain available until expended, of which \$20,000,000 shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

#### [SCIENCE]

[For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of not to exceed forty-seven passenger motor vehicles for replacement only, including not to exceed one ambulance and two buses, \$3,666,055,000, to remain available until expended.

#### [NUCLEAR WASTE DISPOSAL]

[For nuclear waste disposal activities to carry out the purposes of the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended (the "Act"), including the acquisition of real property or facility construction or expansion, \$310,000,000, to remain available until expended and to be derived from the Nuclear Waste Fund: *Provided*, That of the funds made available in this Act for Nuclear Waste Disposal, \$3,500,000 shall be provided to the State of Nevada solely for expenditures, other than salaries and expenses of State employees, to conduct scientific oversight responsibilities and participate in

licensing activities pursuant to the Act: *Provided further*, That \$7,000,000 shall be provided to affected units of local governments, as defined in the Act, to conduct appropriate activities and participate in licensing activities: *Provided further*, That the distribution of the funds as determined by the units of local government shall be approved by the Department of Energy: *Provided further*, That the funds for the State of Nevada shall be made available solely to the Nevada Division of Emergency Management by direct payment and units of local government by direct payment: *Provided further*, That within 90 days of the completion of each Federal fiscal year, the Nevada Division of Emergency Management and the Governor of the State of Nevada and each local entity shall provide certification to the Department of Energy that all funds expended from such payments have been expended for activities authorized by the Act and this Act: *Provided further*, That failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building activities inconsistent with the restrictions contained in this Act: *Provided further*, That all proceeds and recoveries realized by the Secretary in carrying out activities authorized by the Act, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended.

#### [DEPARTMENTAL ADMINISTRATION]

#### [INCLUDING TRANSFER OF FUNDS]

[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 \$35,000, \$253,909,000 (reduced by \$1,000,000), to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total \$123,000,000 in fiscal year 2006 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 2006, and any related unappropriated receipt account balances remaining from prior years' miscellaneous revenues, so as to result in a final fiscal year 2006 appropriation from the general fund estimated at not more than \$130,909,000.

#### [OFFICE OF THE INSPECTOR GENERAL]

[For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$43,000,000, to remain available until expended.

### [ATOMIC ENERGY DEFENSE ACTIVITIES]

#### [NATIONAL NUCLEAR SECURITY]

##### ADMINISTRATION

#### [WEAPONS ACTIVITIES]

#### [INCLUDING TRANSFER OF FUNDS]

[For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of not to exceed 40 passenger motor vehicles, for replacement only, including not to exceed two buses; \$6,181,121,000, to remain available until expended.

#### [DEFENSE NUCLEAR NONPROLIFERATION]

[For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense, defense nuclear nonproliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$1,500,959,000, to remain available until expended.

#### [NAVAL REACTORS]

[For Department of Energy expenses necessary for naval reactors activities to carry out the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition (by purchase, condemnation, construction, or otherwise) of real property, plant, and capital equipment, facilities, and facility expansion, \$799,500,000, to remain available until expended.

#### [OFFICE OF THE ADMINISTRATOR]

[For necessary expenses of the Office of the Administrator in the National Nuclear Security Administration, including official reception and representation expenses not to exceed \$12,000, \$366,869,000, to remain available until expended.

### [ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES]

#### [DEFENSE ENVIRONMENTAL CLEANUP]

[For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental cleanup activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$6,468,336,000, to remain available until expended.

#### [OTHER DEFENSE ACTIVITIES]

[For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses, necessary for atomic energy defense, other defense activities, and classified activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed ten passenger motor vehicles for replacement only, including not to exceed two buses; \$702,498,000, to remain available until expended.

#### [DEFENSE NUCLEAR WASTE DISPOSAL]

[For nuclear waste disposal activities to carry out the purposes of Public Law 97-425,

as amended, including the acquisition of real property or facility construction or expansion, \$351,447,000, to remain available until expended.

**[POWER MARKETING ADMINISTRATIONS  
[BONNEVILLE POWER ADMINISTRATION FUND]**

[Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for official reception and representation expenses in an amount not to exceed \$1,500. During fiscal year 2006, no new direct loan obligations may be made.

**[OPERATION AND MAINTENANCE,  
SOUTHEASTERN POWER ADMINISTRATION]**

[For necessary expenses of operation and maintenance of power transmission facilities and of electric power and energy, including transmission wheeling and ancillary services pursuant to section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, \$5,600,000, to remain available until expended: *Provided*, That, notwithstanding 31 U.S.C. 3302, up to \$32,713,000 collected by the Southeastern Power Administration pursuant to the Flood Control Act of 1944 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

**[OPERATION AND MAINTENANCE,  
SOUTHWESTERN POWER ADMINISTRATION]**

[For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed \$1,500 in carrying out section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power administration, \$31,401,000, to remain available until expended: *Provided*, That, notwithstanding 31 U.S.C. 3302, up to \$1,235,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act 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.

**[CONSTRUCTION, REHABILITATION, OPERATION  
AND MAINTENANCE, WESTERN AREA POWER  
ADMINISTRATION]**

[For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed \$1,500; \$226,992,000, to remain available until expended, of which \$222,830,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided*, That of the amount herein appropriated, \$6,000,000 shall be available until expended on a nonreimbursable basis to the Western Area Power Administration for Topock-Davis-Mead Transmission Line Upgrades: *Provided further*, That notwithstanding the provision of 31 U.S.C. 3302, up to \$148,500,000 collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

**[FALCON AND AMISTAD OPERATING AND  
MAINTENANCE FUND]**

[For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, \$2,692,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

**[FEDERAL ENERGY REGULATORY COMMISSION  
[SALARIES AND EXPENSES]**

[For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses not to exceed \$3,000, \$220,400,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed \$220,400,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2006 shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated from the general fund shall be reduced as revenues are received during fiscal year 2006 so as to result in a final fiscal year 2006 appropriation from the general fund estimated at not more than \$0.

**[GENERAL PROVISIONS]**

**[DEPARTMENT OF ENERGY]**

[SEC. 301. (a)(1) None of the funds in this or any other appropriations Act for fiscal year 2006 or any previous fiscal year may be used to make payments for a noncompetitive management and operating contract unless the Secretary of Energy has published in the Federal Register and submitted to the Committees on Appropriations of the House of Representatives and the Senate a written notification, with respect to each such contract, of the Secretary's decision to use competitive procedures for the award of the contract, or to not renew the contract, when the term of the contract expires.

[(2) Paragraph (1) does not apply to an extension for up to 2 years of a noncompetitive management and operating contract, if the extension is for purposes of allowing time to award competitively a new contract, to provide continuity of service between contracts, or to complete a contract that will not be renewed.

[(b) In this section:

[(1) The term "noncompetitive management and operating contract" means a contract that was awarded more than 50 years ago without competition for the management and operation of Ames Laboratory, Argonne National Laboratory, Lawrence Berkeley National Laboratory, Lawrence Livermore National Laboratory, and Los Alamos National Laboratory.

[(2) The term "competitive procedures" has the meaning provided in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) and includes procedures described in section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) other than a procedure that solicits a proposal from only one source.

[(c) For all management and operating contracts other than those listed in subsection (b)(1), none of the funds appropriated by this Act may be used to award a management and operating contract, or award a significant extension or expansion to an existing management and operating contract, unless such contract is awarded using competitive procedures or the Secretary of Energy

grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver. At least 60 days before a contract award for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report notifying the Committees of the waiver and setting forth, in specificity, the substantive reasons why the Secretary believes the requirement for competition should be waived for this particular award.

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

[(1) develop or implement a workforce restructuring plan that covers employees of the Department of Energy; or

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

[SEC. 303. None of the funds appropriated by this Act may be used to augment the funds made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 42 U.S.C. 7274h) unless the Department of Energy submits a reprogramming request to the appropriate congressional committees.

[SEC. 304. None of the funds appropriated by this Act may be used to prepare or initiate Requests For Proposals (RFPs) for a program if the program has not been funded by Congress.

**[(TRANSFERS OF UNEXPENDED BALANCES)]**

[SEC. 305. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

[SEC. 306. None of the funds in this or any other Act for the Administrator of the Bonneville Power Administration may be used to enter into any agreement to perform energy efficiency services outside the legally defined Bonneville service territory, with the exception of services provided internationally, including services provided on a reimbursable basis, unless the Administrator certifies in advance that such services are not available from private sector businesses.

[SEC. 307. When the Department of Energy makes a user facility available to universities or other potential users, or seeks input from universities or other potential users regarding significant characteristics or equipment in a user facility or a proposed user facility, the Department shall ensure broad public notice of such availability or such need for input to universities and other potential users. When the Department of Energy considers the participation of a university or other potential user as a formal partner in the establishment or operation of a user facility, the Department shall employ full and open competition in selecting such a partner. For purposes of this section, the term "user facility" includes, but is not limited to: (1) a user facility as described in section 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C. 13503(a)(2)); (2) a National Nuclear Security Administration Defense Programs Technology Deployment Center/User Facility; and (3) any other Departmental facility designated by the Department as a user facility.

[SEC. 308. The Administrator of the National Nuclear Security Administration may

authorize the manager of a covered nuclear weapons research, development, testing or production facility to engage in research, development, and demonstration activities with respect to the engineering and manufacturing capabilities at such facility in order to maintain and enhance such capabilities at such facility: *Provided*, That of the amount allocated to a covered nuclear weapons facility each fiscal year from amounts available to the Department of Energy for such fiscal year for national security programs, not more than an amount equal to 2 percent of such amount may be used for these activities: *Provided further*, That for purposes of this section, the term "covered nuclear weapons facility" means the following:

[(1) the Kansas City Plant, Kansas City, Missouri;

[(2) the Y-12 Plant, Oak Ridge, Tennessee;

[(3) the Pantex Plant, Amarillo, Texas;

[(4) the Savannah River Plant, South Carolina; and

[(5) the Nevada Test Site.

[SEC. 309. Funds appropriated by this or any other Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of the Intelligence Authorization Act for fiscal year 2006.

[SEC. 310. None of the funds made available in this Act may be used to select a site for the Modern Pit Facility during fiscal year 2006.

[SEC. 311. None of the funds made available in title III of this Act shall be for the Department of Energy national laboratories and production plants for Laboratory Directed Research and Development (LDRD), Plant Directed Research and Development (PDRD), and Site Directed Research and Development (SDRD) activities in excess of \$250,000,000.

[SEC. 312. None of the funds made available in title III of this Act shall be for Department of Energy Laboratory Directed Research and Development (LDRD), Plant Directed Research and Development (PDRD), and Site Directed Research and Development (SDRD) activities for project costs incurred as Indirect Costs by Major Facility Operating Contractors.

[SEC. 313. None of the funds made available in title III of this Act may be used to finance laboratory directed research and development activities at Department of Energy laboratories on behalf of other Federal agencies.

[SEC. 314. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

#### [TITLE IV

##### [INDEPENDENT AGENCIES

##### [APPALACHIAN REGIONAL COMMISSION

[For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, \$38,500,000, to remain available until expended.

##### [DEFENSE NUCLEAR FACILITIES SAFETY BOARD

##### [SALARIES AND EXPENSES

[For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out

activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-456, section 1441, \$22,032,000, to remain available until expended.

##### [DELTA REGIONAL AUTHORITY

##### [SALARIES AND EXPENSES

[For necessary expenses of the Delta Regional Authority and to carry out its activities, as authorized by the Delta Regional Authority Act of 2000, as amended, notwithstanding sections 382C(b)(2), 382F(d), and 382M(b) of said Act, \$6,000,000, to remain available until expended.

##### [DENALI COMMISSION

[For expenses of the Denali Commission, \$2,562,000, to remain available until expended.

##### [NUCLEAR REGULATORY COMMISSION

##### [SALARIES AND EXPENSES

[For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed \$15,000), and purchase of promotional items for use in the recruitment of individuals for employment, \$714,376,000, to remain available until expended: *Provided*, That of the amount appropriated herein, \$66,717,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at \$580,643,000 in fiscal year 2006 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2006 so as to result in a final fiscal year 2006 appropriation estimated at not more than \$133,732,600: *Provided further*, That section 6101 of the Omnibus Budget Reconciliation Act of 1990 is amended by inserting before the period in subsection (c)(2)(B)(v) the words "and fiscal year 2006".

##### [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, \$8,316,000, to remain available until expended: *Provided*, That revenues from licensing fees, inspection services, and other services and collections estimated at \$7,485,000 in fiscal year 2006 shall be retained and be available until expended, for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2006 so as to result in a final fiscal year 2006 appropriation estimated at not more than \$831,000.

##### [NUCLEAR WASTE TECHNICAL REVIEW BOARD

##### [SALARIES AND EXPENSES

[For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051, \$3,608,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

#### [TITLE V

##### [GENERAL PROVISIONS

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

[SEC. 502. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the

United States Government, except pursuant to a transfer made by, or transfer authority provided in this Act or any other appropriation Act.

[SEC. 503. None of the funds made available by this Act shall be used by the Nuclear Regulatory Commission to contract with or reimburse any Nuclear Regulatory Commission licensee or the Nuclear Energy Institute with respect to matters relating to the security of production facilities or utilization facilities (within the meaning of the Atomic Energy Act of 1954).

[SEC. 504. None of the funds made available by this Act may be used before March 1, 2006, to enter into an agreement obligating the United States to contribute funds to ITER, the international burning plasma fusion research project in which the President announced United States participation on January 30, 2003.

[This Act may be cited as the "Energy and Water Development Appropriations Act, 2006".]

*That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2006, for energy and water development and for other purposes, namely:*

#### TITLE I—DEPARTMENT OF DEFENSE—CIVIL

##### DEPARTMENT OF THE ARMY

##### CORPS OF ENGINEERS—CIVIL

*The following appropriations shall be expended under the direction of the Chief of Engineers and the supervision of the Director of Civil Works for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related purposes.*

##### GENERAL INVESTIGATIONS

*For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by law, surveys and detailed studies and plans and specifications of projects prior to construction, \$180,000,000, to remain available until expended.*

##### CONSTRUCTION, GENERAL

*For expenses necessary for the construction of river and harbor, flood control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law; for conducting detailed studies, and plans and specifications, of such projects (including those for development with participation or under consideration for 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); \$2,086,664,000, 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 pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, to cover one-half of the costs of construction and rehabilitation of inland waterways projects, (including the rehabilitation costs for Lock and Dam 11, Mississippi River, Iowa; Lock and Dam 19, Mississippi River, Iowa; Lock and Dam 24, Mississippi River, Illinois and Missouri; Lock 27, Mississippi River, Illinois; and Lock and Dam 3, Mississippi River, Minnesota) shall be derived from the Inland Waterways Trust Fund: *Provided*, That using \$15,000,000 of the funds appropriated herein, the Chief of Engineers is directed to continue construction of the Dallas*



*Floodway Extension, Texas, project, including the Cadillac Heights feature, generally in accordance with the Chief of Engineers report dated December 7, 1999: Provided further, That the Chief of Engineers is directed to use \$2,000,000 of the funds provided herein to continue construction of the Hawaii Water Management Project: Provided further, That the Chief of Engineers is directed to use \$13,000,000 of the funds appropriated herein to continue construction of the navigation project at Kaunapali Harbor, Hawaii: Provided further, That the Chief of Engineers is directed to use \$4,000,000 of the funds provided herein for the Dam Safety and Seepage/Stability Correction Program to complete construction of seepage control features and repairs to the tainter gates at Waterbury Dam, Vermont: Provided further, That the Chief of Engineers is directed to use \$9,500,000 of the funds appropriated herein to proceed with planning, engineering, design or construction of the Grundy, Buchanan County, and Dickinson County, Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project: Provided further, That the Chief of Engineers is directed to use \$4,600,000 of the funds appropriated herein to continue with the planning, engineering, design or construction of the Lower Mingo County, Upper Mingo County, Wayne County, McDowell County, West Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project: Provided further, That the Chief of Engineers is directed to continue the Dickinson County Detailed Project Report as generally defined in Plan 4 of the Huntington District Engineer's Draft Supplement to the section 202 General Plan for Flood Damage Reduction dated April 1997, including all Russell Fork tributary streams within the County and special considerations as may be appropriate to address the unique relocations and resettlement needs for the flood prone communities within the County: Provided further, That the Chief of Engineers is directed to proceed with work on the permanent bridge to replace Folsom Bridge Dam Road, Folsom, California, as authorized by the Energy and Water Development Appropriations Act, 2004 (Public Law 108-137), and, of the \$12,000,000 available for the American River Watershed (Folsom Dam Mini-Raise), California, project, up to \$7,000,000 of those funds be directed for the permanent bridge, with all remaining devoted to the Mini-Raise: Provided further, That \$300,000 is provided for the Chief of Engineers to conduct a General Reevaluation Study on the Mount St. Helens project to determine if ecosystem restoration actions are prudent in the Cowlitz and Toulle watersheds for species that have been listed as being of economic importance and threatened or endangered.*

**FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE**

For expenses necessary for the flood damage reduction program for the Mississippi River alluvial valley below Cape Girardeau, Missouri, as authorized by law, \$433,336,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of operation and maintenance costs for inland harbors shall be derived from the harbor maintenance trust fund: *Provided, That the Chief of Engineers, using \$25,000,000 of the funds provided herein, is directed to continue design and real estate activities and to initiate the pump supply contract for the Yazoo Basin, Yazoo Backwater Pumping Plant, Mississippi: Provided further, That the pump supply contract shall be performed by awarding continuing contracts in accordance with 33 U.S.C. 621: Provided further, That the Secretary of the Army, acting through the Chief of Engineers is directed, with \$10,000,000 appropriated herein, to continue construction of water withdrawal features of*

*the Grand Prairie, Arkansas, project, of which such sums as are necessary to cover the Federal share of operation and maintenance costs for inland harbors shall be derived from the Harbor Maintenance Trust Fund.*

**OPERATION AND MAINTENANCE, GENERAL**

For expenses necessary for the operation, maintenance, and care of existing river and harbor, flood and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law; for providing security for infrastructure owned and operated by, or on behalf of, the United States Army Corps of Engineers, including administrative buildings and facilities, laboratories, and the Washington Aqueduct; for the maintenance of harbor channels provided by a State, municipality, or other public agency that serve essential navigation needs of general commerce, where authorized by law; and for surveys and charting of northern and northwestern lakes and connecting waters, clearing and straightening channels, and removal of obstructions to navigation, \$2,100,000,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of operation and maintenance costs for coastal harbors and channels, shall be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662 may be derived from that fund; of which such sums as become available from the special account for the United States Army Corps of Engineers established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l-6a(i)), may be derived from that account for resource protection, research, interpretation, and maintenance activities related to resource protection in the areas at which outdoor recreation is available; and of which such sums as become available under section 217 of the Water Resources Development Act of 1996, Public Law 104-303, shall be used to cover the cost of operation and maintenance of the dredged material disposal facilities for which fees have been collected: *Provided, That utilizing funds appropriated herein, for the Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, the Chief of Engineers, is directed to reimburse the State of Delaware for normal operation and maintenance costs incurred by the State of Delaware for the SR1 Bridge from station 58+00 to station 293+00 between October 1, 2005, and September 30, 2006: Provided further, That the Chief of Engineers is authorized to undertake, at full Federal expense, a detailed evaluation of the Albuquerque levees for purposes of determining structural integrity, impacts of vegetative growth, and performance under current hydrological conditions: Provided further, That using \$275,000 provided herein, the Chief of Engineers is authorized to remove the sunken vessel State of Pennsylvania from the Christina River in Delaware.*

**FLOOD CONTROL AND COASTAL EMERGENCIES**

For expenses necessary to prepare for flood, hurricane, and other natural disasters and support emergency operations, repairs, and other activities in response to flood and hurricane emergencies, as authorized by law, \$43,000,000, to remain available until expended.

**REGULATORY PROGRAM**

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, \$150,000,000, to remain available until expended.

**FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM**

For expenses necessary to clean up contamination from sites in the United States resulting from work performed as part of the Nation's early atomic energy program, \$140,000,000, to remain available until expended.

**GENERAL EXPENSES**

For expenses necessary for general administration and related civil works functions in the headquarters of the United States Army Corps

of Engineers, the offices of the Division Engineers, 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, \$165,000,000, to remain available until expended: *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.*

**ADMINISTRATIVE PROVISION**

Appropriations in this title shall be available for official reception and representation expenses (not to exceed \$5,000); and during the current fiscal year the Revolving Fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

**GENERAL PROVISIONS, CORPS OF ENGINEERS—  
CIVIL**

**SEC. 101.** Beginning in fiscal year 2005 and thereafter, agreements proposed for execution by the Assistant Secretary of the Army for Civil Works or the United States Army Corps of Engineers after the date of the enactment of this Act pursuant to section 4 of the Rivers and Harbor Act of 1915, Public Law 64-291; section 11 of the River and Harbor Act of 1925, Public Law 68-585; the Civil Functions Appropriations Act, 1936, Public Law 75-208; section 215 of the Flood Control, Act of 1968, as amended, Public Law 90-483; sections 104, 203, and 204 of the Water Resources Development Act of 1986, as amended, Public Law 99-662; section 206 of the Water Resources Development Act of 1992, as amended, Public Law 102-580; section 211 of the Water Resources Development Act of 1996, Public Law 104-303; and any other specific project authority, shall be limited to total credits and reimbursements for all applicable projects not to exceed \$100,000,000 in each fiscal year.

**SEC. 102.** None of the funds appropriated in this or any other Act shall be used to demonstrate or implement any plans divesting or transferring any Civil Works missions, functions, or responsibilities of the United States Army Corps of Engineers to other government agencies without specific direction in a subsequent Act of Congress.

**SEC. 103. ST. GEORGES BRIDGE, DELAWARE.** None of the funds made available in this Act may be used to carry out any activity relating to closure or removal of the St. Georges Bridge across the Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, including a hearing or any other activity relating to preparation of an environmental impact statement concerning the closure or removal.

**SEC. 104.** Within 75 days of the date of the Chief of Engineers Report on a water resource matter, the Assistant Secretary of the Army (Civil Works) shall submit the report to the appropriate authorizing and appropriating committees of the Congress.

**SEC. 105.** Within 90 days of the date of enactment of this Act, the Assistant Secretary of the Army (Civil Works) shall transmit to Congress his report on any water resources matter on which the Chief of Engineers has reported.

**SEC. 106.** Section 123 of Public Law 108-137 (117 Stat. 1837) is amended by striking "in accordance with the Baltimore Metropolitan Water Resources-Gwynns Falls Watershed Feasibility Report" and all that follows and inserting the following language in lieu thereof: "in accordance with the 'Baltimore Metropolitan Water Resources-Gwynns Falls Watershed Study' report prepared by the Corps of Engineers and the City of Baltimore, Maryland, dated September 2002."

**SEC. 107. MARMET LOCK, KANAWHA RIVER, WEST VIRGINIA.** Section 101(a)(31) of the Water Resources Development Act of 1996 (110 Stat.

3666), is amended by striking "\$229,581,000" and inserting "\$358,000,000".

SEC. 108. LOWER MUD RIVER, MILTON, WEST VIRGINIA. The project for flood control at Milton, West Virginia, authorized by section 580 of the Water Resources Development Act of 1996 (110 Stat. 3790), as modified by section 340 of the Water Resources Development Act of 2000 (114 Stat. 2612), is modified to authorize the Chief of Engineers to construct the project substantially in accordance with the draft report of the Corps of Engineers dated May 2004, at an estimated total cost of \$45,500,000, with an estimated Federal cost of \$34,125,000 and an estimated non-Federal cost of \$11,375,000.

SEC. 109. WATER REALLOCATION, LAKE CUMBERLAND, KENTUCKY. (a) IN GENERAL.—Subject to subsection (b), none of the funds made available by this Act may be used to carry out any water reallocation project or component under the Wolf Creek Project, Lake Cumberland, Kentucky, authorized under the Act of June 28, 1938 (52 Stat. 1215, chapter 795) and the Act of July 24, 1946 (60 Stat. 636, chapter 595).

(b) EXISTING REALLOCATIONS.—Subsection (a) shall not apply to any water reallocation for Lake Cumberland, Kentucky, that is carried out subject to an agreement or payment schedule in effect on the date of enactment of this Act.

SEC. 110. Section 529(b)(3) of Public Law 106-541 is amended by striking "\$10,000,000" and inserting "\$20,000,000" in lieu thereof.

SEC. 111. YAZOO BASIN, UPPER YAZOO PROJECTS, MISSISSIPPI. The Yazoo Basin Headwater Improvement, Mississippi, project authorized by the Flood Control Act of 1928 (45 Stat. 534), as amended and modified, is further modified to include the design and construction at full Federal expense of such measures as determined by the Chief of Engineers to be advisable for the control of bank erosion along the Yazoo River and including, but not limited to, the following tributaries and watersheds of the Yazoo River: Tallahatchie River, Coldwater River (below Arkabutla Dam), Bear Creek Diversion, Yalobusha River (below Grenada Dam), Little Tallahatchie River (below Sardis Dam), Yocona River (below Enid Dam), Tchula Lake, Cassidy Bayou, Bobo Bayou Area, Arkabutla Canal, Ascalmore-Tippo Creek, David-Burrell Bayou, McKinney Bayou, Lake Cormorant Area, Hurricane Bayou, Opossum Bayou, Chicopa Creek, Hillside Floodway, Bear Creek, Alligator-Catfish Bayou, Rocky Bayou, Whiteoak Bayou, Potacocowa Creek, Tillatoba Creek, Teoc Creek, Big Sand Creek, Chicopa Creek, and miscellaneous ditches.

SEC. 112. LOWER MISSISSIPPI RIVER MUSEUM AND RIVERFRONT INTERPRETIVE SITE, MISSISSIPPI. The Water Resources Development Act of 1992 (106 Stat. 4811) is amended by—

(1) in section 103(c)(2) by striking "property currently held by the Resolution Trust Corporation in the vicinity of the Mississippi River Bridge" and inserting "riverfront property"; and

(2) in section 103(c)(7)—

(A) by striking "There is" and inserting the following: "(A) IN GENERAL.—There is"; and

(B) by striking "\$2,000,000" and all that follows and inserting the following: "\$15,000,000 to plan, design, and construct generally in accordance with the conceptual plan to be prepared by the Corps of Engineers.

"(B) FUNDING.—The planning, design, and construction of the Lower Mississippi River Museum and Riverfront Interpretive Site shall be carried out using funds appropriated as part of the Mississippi River Levees feature of the Mississippi River and Tributaries Project, authorized by the Act of May 15, 1928 (45 Stat. 534, chapter 569)."

SEC. 113. PUBLIC LAW 106-53. Section 593(h) (113 Stat. 381) is modified by striking "\$25,000,000" and inserting "\$50,000,000".

SEC. 114. The project for navigation, Los Angeles Harbor, California, authorized by section 101(b)(5) of the Water Resources Development

Act of 2000 (114 Stat. 2577) is modified to authorize the Chief of Engineers to carry out the project at a total cost of \$222,000,000.

SEC. 115. MISSOURI AND MIDDLE MISSISSIPPI RIVERS ENHANCEMENT PROJECT. (a) Section 514 of the Water Resources Development Act of 1999 is amended by inserting after subsection (e):

"(f) NONPROFIT ENTITIES.—Notwithstanding section 221(b) of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b(b)), for any project undertaken under this section, a non-Federal interest may include a Regional or National nonprofit entity with the consent of the affected local government.

"(g) COST LIMITATION.—Not more than \$5,000,000 in Federal funds may be allotted under this section for a project at any single locality."; and

(b) renumbering the succeeding subsections accordingly.

SEC. 116. Section 514(f)(1) of the Water Resources Development Act of 1999 (Public Law 106-53) is amended by adding at the end of the sentence before the period "which may be in cash, by the provision of lands, easements, rights-of-way, relocations or disposal areas, by in-kind services to implement the project, or by any combination of the foregoing. Land needed for a project under this authority may remain in private ownership subject to easements satisfactory to the Secretary necessary to assure achievement of the project purposes".

SEC. 117. Section 514(g) of the Water Resources Development Act of 1999 (Public Law 106-53) is amended by striking the words "for the period of fiscal years 2000 and 2001" and inserting in lieu thereof "per year, and such authority shall extend until Federal fiscal year 2015".

SEC. 118. MISSOURI RIVER LEVEE SYSTEM, UNIT L-15 LEVEE, MISSOURI. The portion of the L-15 levee system which is under the jurisdiction of the Consolidated North County Levee District and which is situated along the right descending bank of the Mississippi River from its confluence with the Missouri River and running upstream approximately 14 miles shall be considered to be a Federal levee for purposes of cost sharing under 33 U.S.C. 701n.

SEC. 119. Section 219(f) of the Water Resources Development Act of 1992 (Public Law 102-580; 106 Stat. 4835), as amended by section 502(b) of the Water Resources Development Act of 1999 (Public Law 106-53) and section 108(d) of title I of division B of the Miscellaneous Appropriations Act, 2001 (as enacted by Public Law 106-554; 114 Stat. 2763A-220), is further amended by adding at the end the following:

"(72) ALPINE, CALIFORNIA.—\$10,000,000 is authorized for a water transmission main, Alpine, CA."

SEC. 120. Section 214(a) of Public Law 106-541 is amended by striking "2005" and inserting "2006".

SEC. 121. MIDDLE RIO GRANDE ENDANGERED SPECIES COLLABORATIVE PROGRAM, NEW MEXICO. The Secretary of the Army may carry out projects that comply with the Reasonable and Prudent Alternative of the 2003 Biological Opinion required by section 205(b) of Public Law 108-447 (118 Stat. 2949) referring to the Biological and Conference Opinions on the Effects of Actions Associated with the Programmatic Biological Assessment of Bureau of Reclamation's Water and River Maintenance Operations, Army Corps of Engineers' Flood Control Operation, and Related Non-Federal Actions on the Middle Rio Grande, New Mexico and other recovery measures for the Rio Grande Silvery Minnow or the Southwest Willow Flycatcher, including recommendations provided by the Endangered Species Act Collaborative Program as established in Public Law 108-137 section 209(b) (117 Stat. 1850). All project undertaken under this subsection shall be subject to a 75 percent Federal/25 percent non-Federal cost share. The non-Federal cost share for all projects carried out under this program may be provided

through in-kind services or direct cash contributions and shall include provision of necessary land, easements, relocations and disposal sites. Non-Federal cost share shall be credited on a programmatic basis instead of on a project-by-project basis with reconciliation of total project costs and total non-Federal cost share on a 3 year incremental basis. Over contribution of non-Federal cost share shall be credited to subsequent years. In lieu of individual Project Cooperation Agreements, the Secretary shall enter into Memoranda of Agreement with participants in the Middle Rio Grande Endangered Species Collaborative Program in order to establish relative contribution of non-Federal cost share by each participant, implement projects, and streamline administrative procedures.

SEC. 122. BLUESTONE, WEST VIRGINIA. Section 547 of the Water Resources Development Act of 2000 (114 Stat. 2676) is amended—

(1) in subsection (b)(1)(A) by striking "4 years" and inserting "5 years";

(2) in subsection (b)(1)(B)(iii) by striking "if all" and all that follows through "facility" and inserting "assurance project";

(3) in subsection (b)(1)(C) by striking "and construction" and inserting "construction, and operation and maintenance";

(4) by adding at the end of subsection (b) the following:

"(3) OPERATION AND OWNERSHIP.—The Tri-Cities Power Authority shall be the owner and operator of the hydropower facilities referred to in subsection (a).";

(5) in subsection (c)(1)—

(A) by striking "No" and inserting "Unless otherwise provided, no";

(B) by inserting "planning," before "design"; and

(C) by striking "prior to" and all that follows through "subsection (d)";

(6) in subsection (c)(2) by striking "design" and inserting "planning, design,";

(7) in subsection (d)—

(A) by striking paragraphs (1) and (2) and inserting the following:

"(1) APPROVAL.—The Secretary shall review the design and construction activities for all features of the hydroelectric project that pertain to and affect stability of the dam and control the release of water from Bluestone Dam to ensure that the quality of construction of those features meets all standards established for similar facilities constructed by the Secretary.";

(B) by redesignating paragraph (3) as paragraph (2);

(C) by striking the period at the end of paragraph (2) (as so redesignated) and inserting "except that hydroelectric power is no longer a project purpose of the facility so long as Tri-Cities Power Authority continues to exercise its responsibilities as the builder, owner, and operator of the hydropower facilities at Bluestone Dam. Water flow releases and flood control from the hydropower facilities shall be determined and directed by the Corps of Engineers."; and

(D) by adding at the end the following:

"(3) COORDINATION.—Construction of the hydroelectric generating facilities shall be coordinated with the dam safety assurance project currently in the design and construction phases.";

(8) in subsection (e) by striking "in accordance" and all that follows through "58 Stat. 890";

(9) in subsection (f)—

(A) by striking "facility of the interconnected systems of reservoirs operated by the Secretary" each place it appears and inserting "facilities under construction under such agreements"; and

(B) by striking "design" and inserting "planning, design";

(10) in subsection (f)(2)—

(A) by "Secretary" each place it appears and inserting "Tri-Cities Power Authority"; and

(B) by striking "facilities referred to in subsection (a)" and inserting "such facilities";



(11) by striking paragraph (1) of subsection (g) and inserting the following:

“(1) to arrange for the transmission of power to the market or to construct such transmission facilities as necessary to market the power produced at the facilities referred to in subsection (a) with funds contributed by the Tri-Cities Power Authority; and”;

(12) in subsection (g)(2) by striking “such facilities” and all that follows through “the Secretary” and inserting “the generating facility”;

and

(13) by adding at the end the following:

“(i) **TRI-CITIES POWER AUTHORITY DEFINED.**—In this section, the ‘Tri-Cities Power Authority’ refers to the entity established by the City of Hinton, West Virginia, the City of White Sulphur Springs, West Virginia, and the City of Philippi, West Virginia, pursuant to a document entitled ‘Second Amended and Restated Intergovernmental Agreement’ approved by the Attorney General of West Virginia on February 14, 2002.”.

SEC. 123. The portion of the project for navigation, City Waterway, Tacoma, Washington authorized by the first section of the Act of June 13, 1902 (32 Stat. 347), consisting of the last 1,000 linear feet of the inner portion of the Waterway beginning at Station 70+00 and ending at Station 80+00, is not authorized.

SEC. 124. The Chief of Engineers shall define the repairs made at Fern Ridge Dam as a dam safety project and costs shall be recovered in accordance with Section 1203 of the Water Resources Development Act of 1986: Provided, That costs assigned to irrigation will be recovered by the Secretary of the Interior in accordance with Public Law 98-404.

SEC. 125. The Chief of Engineers is directed to fully utilize the Federal dredging fleet in support of all Army Corps of Engineers missions and no restrictions shall be placed on the use or maintenance of any dredge in the Federal Fleet.

SEC. 126. The Chief of Engineers is directed to maintain the Federal dredging fleet to technologically modern and efficient standards.

SEC. 127. **LAKE CHAMPLAIN CANAL DISPERSAL BARRIER, VERMONT AND NEW YORK.** The Chief of Engineers shall determine, at full Federal expense, the feasibility of a dispersal barrier project at the Lake Champlain Canal: Provided, That if the Chief determines that the project is feasible, the Chief shall construct, maintain, and operate a dispersal barrier at the Lake Champlain Canal at full Federal expense.

## TITLE II—DEPARTMENT OF THE INTERIOR

### CENTRAL UTAH PROJECT

#### CENTRAL UTAH PROJECT COMPLETION ACCOUNT

For carrying out activities authorized by the Central Utah Project Completion Act, \$32,614,000, to remain available until expended, of which \$946,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission.

In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, \$1,736,000, to remain available until expended.

#### BUREAU OF RECLAMATION

The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:

##### WATER AND RELATED RESOURCES

##### (INCLUDING TRANSFER OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian tribes, and others, \$899,569,000, to remain available until expended, of which \$63,544,000 shall be available for transfer to the

Upper Colorado River Basin Fund and \$21,998,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; of which not more than \$500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706: Provided further, That such transfers may be increased or decreased within the overall appropriation under this heading: Provided further, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l-6a(i) shall be derived from that Fund or account: Provided further, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: Provided further, That \$500,000 is provided to the Bureau of Reclamation to advance the Snyderville Basin Water Supply Study Special Report to a Feasibility Level Study and NEPA compliance for the purpose of providing water to Park City and the Snyderville Basin, Utah, as a component of the Weber Basin Project: Provided further, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: Provided further, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis.

##### CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, \$52,219,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102-575, to remain available until expended: Provided, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575: Provided further, That none of the funds made available under this heading may be used for the acquisition or leasing of water for in-stream purposes if the water is already committed to in-stream purposes by a court adopted decree or order.

##### CALIFORNIA BAY-DELTA RESTORATION

##### (INCLUDING TRANSFER OF FUNDS)

For carrying out activities authorized by the Calfed Bay Delta Authorization Act, consistent with plans to be approved by the Secretary of the Interior, \$37,000,000, to remain available until expended, of which such amounts as may be necessary to carry out such activities may be transferred to appropriate accounts of other participating Federal agencies to carry out authorized purposes: Provided, That funds appropriated herein may be used for the Federal share of the costs of CALFED Program management: Provided further, That the use of any funds provided to the California Bay-Delta Authority for program-wide management and oversight activities shall be subject to the approval of the Secretary of the Interior: Provided further, That CALFED implementation shall be carried out in a balanced manner with clear performance measures demonstrating concurrent progress in achieving the goals and objectives of the Program.

##### POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, \$57,917,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: Provided, That no part of any other appropriation in this Act shall be available for activities

or functions budgeted as policy and administration expenses.

##### ADMINISTRATIVE PROVISION

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 14 passenger motor vehicles, of which 11 are for replacement only.

##### GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 201. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

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

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

SEC. 203. Funds under this title for Drought Emergency Assistance shall be made available primarily for leasing of water for specified drought related purposes from willing lessors, in compliance with existing State laws and administered under State water priority allocation. Such leases may be entered into with an option to purchase: Provided, That such purchase is approved by the State in which the purchase takes place and the purchase does not cause economic harm within the State in which the purchase is made.

SEC. 204. The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, hereafter is authorized to enter into grants, cooperative agreements, and other agreements with irrigation or water districts and States to fund up to 50 percent of the cost of planning, designing, and constructing improvements that will conserve water, increase water use efficiency, or enhance water management through measurement or automation, at existing water supply projects within the States identified in the Act of June 17, 1902, as amended, and supplemented: Provided, That when such improvements are to federally owned facilities, such funds may be provided in advance on a non-reimbursable basis to an entity operating affected transferred works or may be deemed non-reimbursable for non-transferred works: Provided further, That the calculation of the non-Federal contribution shall provide for consideration of the value of any in-kind contributions, but shall not include funds received from other Federal agencies: Provided further, That the cost of operating and maintaining such improvements shall be the responsibility of the non-Federal entity: Provided further, That this section shall not supercede any existing project-specific funding authority: Provided further, That the Secretary is also hereafter authorized

to enter into grants or cooperative agreements with universities or non-profit research institutions to fund water use efficiency research.

SEC. 205. RIO GRANDE COLLABORATIVE WATER OPERATIONS TEAM. The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, and the Secretary of the Army, acting through the Army Corps of Engineers, shall jointly lead and may enter into agreements with other Federal, State, and non-Federal entities with water rights in the Rio Grande Basin to form a Collaborative Water Operations Team in order to cooperate on water management and riparian actions in order to optimize the supply of water throughout the basin and meet other Federal obligations. The Rio Grande Collaborative Water Operations Team shall undertake to develop a master plan for the Rio Grande River and its tributaries within the State of New Mexico that integrates all Federal actions and where possible considers all non-Federal actions for water management including improvement of agriculture efficiency, environmental restoration and management, ecological improvements and management, scientific investigations, flood control, recreation development and similar water and land management efforts.

SEC. 206. WATER DESALINATION ACT. Section 8 of Public Law 104-298 (The Water Desalination Act of 1996) (110 Stat. 3624) as amended by section 210 of Public Law 108-7 (117 Stat. 146) and by section 6015 of Public Law 109-13 is amended by—

(1) in paragraph (a) by striking “2005” and inserting in lieu thereof “2010”; and

(2) in paragraph (b) by striking “2005” and inserting in lieu thereof “2010”.

SEC. 207. Section 17(b) of the Colorado Ute Indian Water Rights Settlement Act of 1988 as amended (Public Law 100-585, 102 Stat. 2973; Public Law 106-554, 114 Stat. 2763A-266) is amended by striking “within 7 years” and all that follows through “following the date of enactment of this section” and inserting “for each of fiscal years 2006 through 2012”.

SEC. 208. (a) Notwithstanding section 217(a)(3) of the Energy and Water Development Appropriations Act, 2004 (Public Law 108-137; 117 Stat. 1853), and in accordance with section 804(f) of title VIII of the Clark County Conservation of Public Land and Natural Resources Act of 2002 (Public Law 107-282; 116 Stat. 2016), the State of Nevada shall not be responsible for any of the payments described in section 804(b)–(e) of title VIII of Public Law 107-282 associated with the conveyance of the Humboldt Project. The State of Nevada shall be subject to the reconveyance provisions contained in the last sentence of section 804(f).

(b)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (Public Law 107-171, Title II, Subtitle F; 116 Stat. 275), the Secretary of the Interior, acting through the Commissioner of Reclamation, may expend up to \$1,000,000 to cover both the Secretary's share and the State of Nevada's share of the following costs provided by section 804(c)–(e) of Public Law 107-282 incurred by the conveyance of the State of Nevada's share of the Humboldt Project:

- (A) administrative costs;
- (B) real estate transfer costs; and
- (C) the costs associated with complying with—
  - (i) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and
  - (ii) the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(2) The amounts appropriated by this section shall be in addition to the \$270,000 appropriated by section 217(a)(3) of Public Law 108-137.

SEC. 209. (a)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary shall provide not more than \$70,000,000 to the University of Nevada—

(A) to acquire from willing sellers land, water appurtenant to the land, and related interests in the Walker River Basin, Nevada; and

(B) to establish and administer an agricultural and natural resources center, the mission of which shall be to undertake research, restoration, and educational activities in the Walker River Basin relating to—

- (i) innovative agricultural water conservation;
- (ii) cooperative programs for environmental restoration;
- (iii) fish and wildlife habitat restoration; and
- (iv) wild horse and burro research and adoption marketing.

(2) In acquiring interests under paragraph (1)(A), the University of Nevada shall make acquisitions that the University determines are the most beneficial to—

(A) the establishment and operation of the agricultural and natural resources research center authorized under paragraph (1)(B); and

(B) environmental restoration in the Walker River Basin.

(b)(1) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary shall provide not more than \$10,000,000 for a water lease and purchase program for the Walker River Paiute Tribe.

(2) Water acquired under paragraph (1) shall be—

- (A) acquired only from willing sellers;
- (B) designed to maximize water conveyances to Walker Lake; and
- (C) located only within the Walker River Paiute Indian Reservation.

(c) Using amounts made available under section 2507 of the Farm and Security Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107-171), the Secretary, acting through the Commissioner of Reclamation, shall provide—

(1) \$10,000,000 for tamarisk eradication, riparian area restoration, and channel restoration efforts within the Walker River Basin that are designed to enhance water delivery to Walker Lake, with priority given to activities that are expected to result in the greatest increased water flows to Walker Lake; and

(2) \$5,000,000 to the United States Fish and Wildlife Service, the Walker River Paiute Tribe, and the Nevada Division of Wildlife to undertake activities, to be coordinated by the Director of the United States Fish and Wildlife Service, to complete the design and implementation of the Western Inland Trout Initiative and Fishery Improvements in the State of Nevada with an emphasis on the Walker River Basin.

SEC. 210. NORMAN, OKLAHOMA. (A) AUTHORIZATION TO CONDUCT FEASIBILITY STUDY.—

(1) FEASIBILITY STUDY.—In accordance with Federal reclamation law, the Secretary of the Interior (referred to as “Secretary”), acting through the Bureau of Reclamation and in consultation with the State of Oklahoma, Central Oklahoma Master Conservancy District (referred to as “District”), and other interested local entities, is authorized to conduct a study to determine the feasibility of:

(A) implementing water augmentation alternatives that would provide additional water to meet the future needs of the District's member cities and surrounding area;

(B) making use of existing Norman Project infrastructure to store, regulate and deliver water to meet current and future water demands; and

(C) increasing the capacity of existing Norman Project infrastructure in order to meet the projected demands.

(2) COST SHARING.—The Federal share of the cost of the study authorized in this Act shall not exceed 50 percent of the total cost of the study, and shall be non-reimbursable.

(3) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with the State of Oklahoma and other appropriate entities to complete the feasibility study authorized in this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary such sums as are necessary to carry out the Federal share under subsection (a).

SEC. 211. Section 207 of Division C of Public Law 108-447 is amended by inserting “, and any effects of inflation thereon,” after the word “increase”.

#### TITLE III—DEPARTMENT OF ENERGY ENERGY PROGRAMS

##### ENERGY SUPPLY AND CONSERVATION

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for energy supply and energy conservation activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$1,945,330,000, to remain available until expended.

##### CLEAN COAL TECHNOLOGY (DEFERRAL)

Of the funds made available under this heading for obligation in prior years, \$257,000,000 shall not be available until October 1, 2006: 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

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including de-feasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, the hire of passenger motor vehicles, the hire, maintenance, and operation of aircraft, the purchase, repair, and cleaning of uniforms, the reimbursement to the General Services Administration for security guard services, and for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), \$641,646,000, to remain available until expended, of which \$18,000,000 is to continue a multi-year project coordinated with the private sector for FutureGen, without regard to the terms and conditions applicable to clean coal technological projects: Provided, That the initial planning and research stages of the FutureGen project shall include a matching requirement from non-Federal sources of at least 20 percent of the costs: Provided further, That any demonstration component of such project shall require a matching requirement from non-Federal sources of at least 50 percent of the costs of the component: Provided further, That of the amounts provided, \$100,000,000 is available, after coordination with the private sector, for a request for proposals for a Clean Coal Power Initiative providing for competitively-awarded research, development, and demonstration projects to reduce the barriers to continued and expanded coal use: Provided further, That no project may be selected for which sufficient funding is not available to provide for the total project: Provided further, That funds shall be expended in accordance with the provisions governing the use of funds contained under the heading “Clean Coal Technology” in 42 U.S.C. 5903d as well as those contained under the heading “Clean Coal Technology” in prior appropriations: Provided further, That the Department may include provisions for repayment of Government contributions to individual projects in an amount up to the Government contribution to the project on terms and conditions that are acceptable to the Department including repayments from sale and licensing of

technologies from both domestic and foreign transactions: Provided further, That such repayments shall be retained by the Department for future coal-related research, development and demonstration projects: Provided further, That any technology selected under this program shall be considered a Clean Coal Technology, and any project selected under this program shall be considered a Clean Coal Technology Project, for the purposes of 42 U.S.C. 7651n, and chapters 51, 52, and 60 of title 40 of the Code of Federal Regulations: Provided further, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: Provided further, That up to 4 percent of program direction funds available to the National Energy Technology Laboratory may be used to support Department of Energy activities not included in this account: Provided further, That salaries for Federal employees performing research and development activities at the National Energy Technology Laboratory can continue to be funded from program accounts: Provided further, That the Secretary of Energy is authorized to accept fees and contributions from public and private sources, to be deposited in a contributed funds account, and prosecute projects using such fees and contributions in cooperation with other Federal, State, or private agencies or concerns: Provided further, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under the Fossil Energy Research and Development account may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements.

#### NAVAL PETROLEUM AND OIL SHALE RESERVES

For expenses necessary to carry out naval petroleum and oil shale reserve activities, including the hire of passenger motor vehicles, \$21,500,000, to remain available until expended: Provided, That, notwithstanding any other provision of law, unobligated funds remaining from prior years shall be available for all naval petroleum and oil shale reserve activities.

#### ELK HILLS SCHOOL LANDS FUND

For necessary expenses in fulfilling installment payments under the Settlement Agreement entered into by the United States and the State of California on October 11, 1996, as authorized by section 3415 of Public Law 104-106, \$48,000,000, for payment to the State of California for the State Teachers' Retirement Fund, of which \$36,000,000 will be derived from the Elk Hills School Lands Fund.

#### STRATEGIC PETROLEUM RESERVE

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), including the hire of passenger motor vehicles, the hire, maintenance, and operation of aircraft, the purchase, repair, and cleaning of uniforms, the reimbursement to the General Services Administration for security guard services, \$166,000,000, to remain available until expended.

#### ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, \$85,926,000, to remain available until expended.

#### NON-DEFENSE ENVIRONMENTAL CLEANUP

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental cleanup activities in carrying out the purposes of the Department of Energy Organization Act (42

U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed six passenger motor vehicles, of which five shall be for replacement only, \$353,219,000, to remain available until expended.

#### URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions, and other activities of title II of the Atomic Energy Act of 1954, as amended, and title X, subtitle A, of the Energy Policy Act of 1992, \$561,498,000, to be derived from the Fund, to remain available until expended, of which \$0 shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.

#### SCIENCE

For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of not to exceed forty-seven passenger motor vehicles for replacement only, including not to exceed one ambulance and two buses, \$3,702,718,000, to remain available until expended.

#### NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended (the "Act"), including the acquisition of real property or facility construction or expansion, \$300,000,000, to remain available until expended and to be derived from the Nuclear Waste Fund: Provided, That of the funds made available in this Act for Nuclear Waste Disposal, \$3,500,000 shall be provided to the State of Nevada solely for expenditures, other than salaries and expenses of State employees, to conduct scientific oversight responsibilities and participate in licensing activities pursuant to the Act: Provided further, That notwithstanding the lack of a written agreement with the State of Nevada under section 117(c) of the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended, not less than \$500,000 shall be provided to Nye County, Nevada, for on-site oversight activities under section 117(d) of that Act: Provided further, That \$8,500,000 shall be provided to affected units of local governments, as defined in the Act, to conduct appropriate activities and participate in licensing activities: Provided further, That the distribution of the funds as determined by the units of local government shall be approved by the Department of Energy: Provided further, That the funds for the State of Nevada shall be made available solely to the Nevada Division of Emergency Management by direct payment and units of local government by direct payment: Provided further, That within 90 days of the completion of each Federal fiscal year, the Nevada Division of Emergency Management and the Governor of the State of Nevada and each local entity shall provide certification to the Department of Energy that all funds expended from such payments have been expended for activities authorized by the Act and this Act: Provided further, That failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: Provided further, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building

activities inconsistent with the restrictions contained in this Act: Provided further, That all proceeds and recoveries realized by the Secretary in carrying out activities authorized by the Act, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended.

#### DEPARTMENTAL ADMINISTRATION

##### (INCLUDING TRANSFER OF FUNDS)

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 \$35,000, \$280,976,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): Provided, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: Provided further, That moneys received by the Department for miscellaneous revenues estimated to total \$123,000,000 in fiscal year 2006 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of 31 U.S.C. 3302: Provided further, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 2006, and any related unappropriated receipt account balances remaining from prior years' miscellaneous revenues, so as to result in a final fiscal year 2006 appropriation from the general fund estimated at not more than \$157,976,000.

#### OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$43,000,000, to remain available until expended.

#### ATOMIC ENERGY DEFENSE ACTIVITIES

##### NATIONAL NUCLEAR SECURITY ADMINISTRATION

##### WEAPONS ACTIVITIES

##### (INCLUDING TRANSFER OF FUNDS)

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of not to exceed 40 passenger motor vehicles, for replacement only, including not to exceed two buses; \$6,554,024,000, to remain available until expended: Provided, That the \$65,564,000 is authorized to be appropriated for Project 01-D-108, Microsystems and Engineering Sciences Applications (MESA), Sandia National Laboratories, Albuquerque, New Mexico: Provided further, That \$65,000,000 is authorized to be appropriated for Project 04-D-125, Chemistry and Metallurgy Research Building Replacement project, Los Alamos Laboratory, Los Alamos, New Mexico.

#### DEFENSE NUCLEAR NONPROLIFERATION

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense, defense nuclear nonproliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$1,729,066,000, to remain available until expended.

## NAVAL REACTORS

For Department of Energy expenses necessary for naval reactors activities to carry out the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition (by purchase, condemnation, construction, or otherwise) of real property, plant, and capital equipment, facilities, and facility expansion, \$799,500,000, to remain available until expended.

## OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Office of the Administrator in the National Nuclear Security Administration, including official reception and representation expenses not to exceed \$12,000, \$343,869,000, to remain available until expended.

## ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

## DEFENSE ENVIRONMENTAL CLEANUP

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental cleanup activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$6,366,771,000, to remain available until expended.

## OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses, necessary for atomic energy defense, other defense activities, and classified activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed ten passenger motor vehicles for replacement only, including not to exceed two buses; \$665,001,000, to remain available until expended.

## DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, \$277,000,000, to remain available until expended.

## POWER MARKETING ADMINISTRATIONS

## BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for official reception and representation expenses in an amount not to exceed \$1,500. During fiscal year 2006, no new direct loan obligations may be made.

## OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of electric power and energy, including transmission wheeling and ancillary services pursuant to section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, \$5,600,000, to remain available until expended: Provided, That, notwithstanding 31 U.S.C. 3302, up to \$32,713,000 collected by the Southeastern Power Administration pursuant to the Flood Control Act of 1944 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

## OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, for construction and acquisition of transmission

lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed \$1,500 in carrying out section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power administration, \$30,166,000, to remain available until expended: Provided, That, notwithstanding 31 U.S.C. 3302, up to \$3,000,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act 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.

## CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed \$1,500; \$240,757,000, to remain available until expended, of which \$236,596,000 shall be derived from the Department of the Interior Reclamation Fund: Provided, That notwithstanding the provision of 31 U.S.C. 3302, up to \$279,000,000 collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.

## FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, \$2,692,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

## FEDERAL ENERGY REGULATORY COMMISSION SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses not to exceed \$3,000, \$220,400,000, to remain available until expended: Provided, That notwithstanding any other provision of law, not to exceed \$220,400,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2006 shall be retained and used for necessary expenses in this account, and shall remain available until expended: Provided further, That the sum herein appropriated from the general fund shall be reduced as revenues are received during fiscal year 2006 so as to result in a final fiscal year 2006 appropriation from the general fund estimated at not more than \$0.

## GENERAL PROVISIONS, DEPARTMENT OF ENERGY

SEC. 301. None of the funds appropriated by this Act may be used to—

(1) develop or implement a workforce restructuring plan that covers employees of the Department of Energy; or

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

SEC. 302. None of the funds appropriated by this Act may be used to augment the funds made

available for obligation by this Act for severance payments and other benefits and community assistance grants under section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 42 U.S.C. 7274h) unless the Department of Energy submits a reprogramming request to the appropriate congressional committees.

SEC. 303. None of the funds appropriated by this Act may be used to prepare or initiate Requests For Proposals (RFPs) for a program if the program has not been funded by Congress.

## (TRANSFERS OF UNEXPENDED BALANCES)

SEC. 304. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 305. None of the funds in this or any other Act for the Administrator of the Bonneville Power Administration may be used to enter into any agreement to perform energy efficiency services outside the legally defined Bonneville service territory, with the exception of services provided internationally, including services provided on a reimbursable basis, unless the Administrator certifies in advance that such services are not available from private sector businesses.

SEC. 306. (a)(1) None of the funds in this or any other appropriations Act for fiscal year 2006 or any previous fiscal year may be used to make payments for a noncompetitive management and operating contract unless the Secretary of Energy has published in the Federal Register and submitted to the Committees on Appropriations of the House of Representatives and the Senate a written notification, with respect to each such contract, of the Secretary's decision to use competitive procedures for the award of the contract, or to not renew the contract, when the term of the contract expires.

(2) Paragraph (1) does not apply to an extension for up to 2 years of a noncompetitive management and operating contract, if the extension is for purposes of allowing time to award competitively a new contract, to provide continuity of service between contracts, or to complete a contract that will not be renewed.

(b) In this section:

(1) The term "noncompetitive management and operating contract" means a contract that was awarded more than 50 years ago without competition for the management and operation of Ames Laboratory, Argonne National Laboratory, Lawrence Berkeley National Laboratory, Lawrence Livermore National Laboratory, and Los Alamos National Laboratory.

(2) The term "competitive procedures" has the meaning provided in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) and includes procedures described in section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) other than a procedure that solicits a proposal from only one source.

(c) For all management and operating contracts other than those listed in subsection (b)(1), none of the funds appropriated by this Act may be used to award a management and operating contract, or award a significant extension or expansion to an existing management and operating contract, unless such contract is awarded using competitive procedures or the Secretary of Energy grants, on a case-by-case basis, a waiver to allow for such a deviation. The Secretary may not delegate the authority to grant such a waiver. At least 60 days before a contract award for which the Secretary intends to grant such a waiver, the Secretary shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report notifying the Committees of the waiver and

setting forth, in specificity, the substantive reasons why the Secretary believes the requirement for competition should be waived for this particular award.

SEC. 307. When the Department of Energy makes a user facility available to universities or other potential users, or seeks input from universities or other potential users regarding significant characteristics or equipment in a user facility or a proposed user facility, the Department shall ensure broad public notice of such availability or such need for input to universities and other potential users. When the Department of Energy considers the participation of a university or other potential user as a formal partner in the establishment or operation of a user facility, the Department shall employ full and open competition in selecting such a partner. For purposes of this section, the term "user facility" includes, but is not limited to: (1) a user facility as described in section 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C. 13503(a)(2)); (2) a National Nuclear Security Administration Defense Programs Technology Deployment Center/User Facility; and (3) any other Departmental facility designated by the Department as a user facility.

SEC. 308. The Administrator of the National Nuclear Security Administration may authorize the manager of a covered nuclear weapons research, development, testing or production facility to engage in research, development, and demonstration activities with respect to the engineering and manufacturing capabilities at such facility in order to maintain and enhance such capabilities at such facility: Provided, That of the amount allocated to a covered nuclear weapons facility each fiscal year from amounts available to the Department of Energy for such fiscal year for national security programs, not more than an amount equal to 4 percent of such amount may be used for these activities: Provided further, That for purposes of this section, the term "covered nuclear weapons facility" means the following:

- (1) the Kansas City Plant, Kansas City, Missouri;
- (2) the Y-12 Plant, Oak Ridge, Tennessee;
- (3) the Pantex Plant, Amarillo, Texas;
- (4) the Savannah River Plant, South Carolina; and
- (5) the Nevada Test Site.

SEC. 309. Funds appropriated by this or any other Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of the Intelligence Authorization Act for fiscal year 2006.

SEC. 310. None of the funds in this Act may be used to dispose of transuranic waste in the Waste Isolation Pilot Plant which contains concentrations of plutonium in excess of 20 percent by weight for the aggregate of any material category on the date of enactment of this Act, or is generated after such date. For the purpose of this section, the material categories of transuranic waste at the Rocky Flats Environmental Technology Site include: (1) ash residues; (2) salt residue; (3) wet residues; (4) direct repackaging residues; and (5) scrub alloy as referenced in the "Final Environmental Impact Statement on Management of Certain Plutonium Residues and Scrub Alloy Stored at the Rocky Flats Environmental Technology Site".

SEC. 311. ADVANCED SIMULATION COMPUTING. None of the funds appropriated by this Act for the National Nuclear Security Administration (NNSA) Advanced Simulation and Computing program may be used to fund any project that does not directly support the stockpile stewardship mission of NNSA unless the NNSA Administrator determines that all Advanced Simulation and Computing stockpile stewardship responsibilities for fiscal year 2006 have been satisfied.

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

(b) The cost of project vehicles, related facilities, and other activities funded from the Federal Transit Administration Sections 5307, 5308, 5309, and 5314 program, including the non-Federal share for the FTA funds, is an eligible component of the non-Federal share for this project.

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

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

(e) This section applies to project appropriations beginning in fiscal year 2004.

SEC. 313. LABORATORY DIRECTED RESEARCH AND DEVELOPMENT. Of the funds made available by the Department of Energy for activities at government-owned, contractor-operator operated laboratories funded in this Act or subsequent Energy and Water Development Appropriations Acts, the Secretary may authorize a specific amount, not to exceed 8 percent of such funds, to be used by such laboratories for laboratory-directed research and development: Provided, That the Secretary may also authorize a specific amount not to exceed 4 percent of such funds, to be used by the plant manager of a covered nuclear weapons production plant or the manager of the Nevada Site Office for plant or site-directed research and development.

SEC. 314. LDRD ELIGIBILITY. Funds made available in Title III of this Act shall be available to pay expenses for all Lab Directed Research and Development (LDRD), Plant Directed Research and Development (PDRD) and Site Directed Research and Development (SDRD) project costs incurred by DOE Major Facility Operating Contractors.

SEC. 315. LDRD COSTS. Funds made available in Title III of this Act shall be available to finance all direct and indirect costs of research performed on behalf of other Federal agencies, including laboratory directed research and development costs.

SEC. 316. NNSA COMPLEX REVIEW IMPLEMENTATION. No funds provided in this Act shall be available to implement reforms identified in Secretary of Energy's Advisory Board NNSA Nuclear Weapons Complex Infrastructure Study that had not been requested within the fiscal year 2006 budget request.

#### TITLE IV—INDEPENDENT AGENCIES

##### APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, \$65,482,000, to remain available until expended.

##### DEFENSE NUCLEAR FACILITIES SAFETY BOARD

###### SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-456, section 1441, \$22,032,000, to remain available until expended.

##### DELTA REGIONAL AUTHORITY

###### SALARIES AND EXPENSES

For necessary expenses of the Delta Regional Authority and to carry out its activities, as authorized by the Delta Regional Authority Act of 2000, as amended, notwithstanding sections 382C(b)(2), 382F(d), and 382M(b) of said Act, \$12,000,000, to remain available until expended.

##### DENALI COMMISSION

For expenses of the Denali Commission including the purchase, construction and acquisition of plant and capital equipment as necessary and other expenses, \$67,000,000 notwithstanding the limitations contained in

section 306(g) of the Denali Commission Act of 1998, \$2,562,000, to remain available until expended: Provided, That of the amounts provided to the Denali Commission, \$5,000,000 is for community showers and washeteria in villages with homes with no running water; \$13,000,000 is for the Juneau/Green's Creek/Hoonah Intertie project; \$3,000,000 for the Fire Island Transmission line; \$1,000,000 for the Humpback Creek Hydroelectric project; \$2,000,000 for the Falls Creek Hydroelectric project; \$5,000,000 is for multi-purpose community facilities including the Bering Straits Region, Dillingham, Moose Pass, Sterling, Funny River, Eclutna, and Anchor Point; \$10,000,000 is for teacher housing in remote villages such as Savoogna, Allakakaet, Hughes, Huslia, Minto, Nulato, and Ruby where there is limited housing available for teachers; \$7,000,000 is for facilities serving Native elders and senior citizens; and \$5,000,000 is for: (1) the Rural Communications service to provide broadcast facilities in communities with no television or radio station; (2) the Public Broadcasting Digital Distribution Network to link rural broadcasting facilities together to improve economies of scale, share programming, and reduce operating costs; and (3) rural public broadcasting facilities and equipment upgrades.

##### NUCLEAR REGULATORY COMMISSION

###### SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed \$15,000), purchase of promotional items for use in the recruitment of individuals for employment, \$734,376,000, to remain available until expended: Provided, That of the amount appropriated herein, \$66,717,000 shall be derived from the Nuclear Waste Fund: Provided further, That revenues from licensing fees, inspection services, and other services and collections estimated at \$598,643,000 in fiscal year 2006 shall be retained and used for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302, and shall remain available until expended: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2006 so as to result in a final fiscal year 2006 appropriation estimated at not more than \$135,733,000: Provided further, That section 6101 of the Omnibus Budget Reconciliation Act of 1990 is amended by inserting before the period in subsection (c)(2)(B)(v) the words "and fiscal year 2006".

##### 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, \$8,316,000, to remain available until expended: Provided, That revenues from licensing fees, inspection services, and other services and collections estimated at \$7,485,000 in fiscal year 2006 shall be retained and be available until expended, for necessary salaries and expenses in this account, notwithstanding 31 U.S.C. 3302: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2006 so as to result in a final fiscal year 2006 appropriation estimated at not more than \$831,000.

##### NUCLEAR WASTE TECHNICAL REVIEW BOARD

###### SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100-203, section 5051, \$3,608,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

#### TITLE V—GENERAL PROVISION

SEC. 501. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

*This Act may be cited as the "Energy and Water Development Appropriations Act, 2006".*

The committee amendment in the nature of a substitute was agreed to.

Mr. FRIST. Mr. President, Members have been asking about the schedule for tonight. We are proceeding to the Energy and Water appropriations bill. The chairman and ranking member will begin shortly. I do not believe we have many amendments to the bill. We will finish the bill tonight. I know the Senator from California will have an amendment, and it will require some debate and a vote.

We can begin that amendment—or I will leave it to the chair and ranking member at this time. But the plans will be to have further rollcall votes, and we will complete the bill tonight.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I am wondering, while the manager and everybody else is on the floor—we know we have at least one amendment that will take some debate. I am wondering if everybody wants a vote on final passage.

We can do that. It will take a while to get through all this. There are no surprises. It has been around for a while. I am going to be here, anyway, so it does not matter to me. I am wondering if we need to have a rollcall vote on final passage.

Mr. MCCAIN. If the minority leader will yield, I was told there is a whole stack of amendments going to be considered. I am sure some will require rollcall votes.

Mr. REID. We will certainly keep that in mind, but we also have an opportunity when the conference report comes back to take a look at it again if someone needs a recorded vote. As we always do, we will work with the Senator from Arizona, and if there are questions, of course, we will be ready to have a rollcall vote.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, before the Senator from Arizona leaves, before we started, we were aware of only one person—until the Senator from Arizona spoke, and we understand Senator MCCAIN is going to see what he wants to do—who wanted a rollcall vote. Now we will look for any others and will be glad to work with the Senator's people. If he will tell us now, we will share anything he would like as soon as possible.

For the information of the Senate, Senator FEINSTEIN—permit me to editorialize a minute—has offered this amendment, or something like it, a couple times. We have voted on it, but she wants substantial time, and certainly that is her privilege. We will not take much time in opposition.

For the benefit of our colleagues, how long does the Senator from California intend to take?

Mrs. FEINSTEIN. I will take 15 minutes, Senator KENNEDY 30 minutes,

Senator LEVIN 15 minutes, and Senator CLINTON 5 minutes.

Mr. REID. Mr. President, I ask unanimous consent that be the order of those in support of the amendment.

Mr. DOMENICI. There will be no others?

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. On our side, unless somebody else wants time—on this amendment, do you want time?

Mr. WARNER. On Feinstein.

Mr. DOMENICI. In opposition?

Mr. WARNER. Yes.

Mr. DOMENICI. Mr. President, that is 15 minutes in opposition, plus 5 minutes for me. There will be 20 minutes in opposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, before we proceed, I say through the Chair to the distinguished Senator from Arizona, this is one of the smallest managers' packages I have ever seen. I think we have eight or nine items in it, and they are ready for review right now.

Mr. MCCAIN. Mr. President, for the benefit of the Senator from Nevada, there is a large stack of amendments my staff has just been handed. Here we are at 10:15 at night, and we have never laid eyes on them before. I say again to my colleagues, plan on rollcall votes.

Mr. REID. We do not have a large stack of amendments.

Mr. DOMENICI. It is eight items. We will give them all to the Senator from Arizona. We have given them to him already.

Mr. REID. This is one of the smallest managers' packages I have ever dealt with.

Mr. DOMENICI. Mr. President, it is my pleasure to bring the Energy and Water bill for fiscal year 2006 to the floor for consideration. Thanks to Chairman COCHRAN and his ranking member, Senator ROBERT BYRD, the subcommittee allocation is \$31.2 billion, an amount that is \$1.5 billion over the President's request.

Chairman COCHRAN has been generous to this subcommittee, and I am committed to supporting priorities that have been neglected or underfunded in past budgets.

There are two priorities within this bill, and they are water and science.

The first priority is water. As all the Members know, the request cut water projects below the current year level.

In addition, the budget has imposed an OMB-originated formula to establish priorities among water projects. I don't believe the OMB formula is fair, and we have ignored it for purposes of identifying worthy Corps projects in this bill.

I would also like to point out that there is an extensive discussion in the report regarding this committee's support of the Corps' ability to reprogram funds and utilize continuing contracts as an effective tool to manage the over 2,200 Corps projects and studies. The House has proposed to eliminate the

Corps reprogramming authority and restrict its ability to focus resources on critical construction priorities.

Each construction project is different with numerous challenges, including weather, water flows and construction logistics, including manpower and materials, that may cause significant delays. On the other hand, some projects are able to accelerate their schedule. Using the reprogramming authority the Corps is able to keep accelerated projects on track by reprioritizing funds from delayed projects.

I have been contacted by many Members and heard from numerous communities who oppose the House language. I share their concerns and believe the House proposal is unworkable and would eliminate the Corps' ability to prioritize work. These reforms are in the best interest of the Corps or taxpayers.

The subcommittee has also provided funds to offset the \$521 million in unfunded legislative assumptions included in the budget request associated with the management of the Power Marketing Administration.

The second priority in this bill is science. Funding for both the both Office of Science and the Stockpile Stewardship R&D accounts within NNSA received increases.

The budget request reduced the Office of Science funding by \$136 million. This mark restores the cut and more, providing an increase of \$240 million above the request.

I am also concerned about the funding reductions to the science-based stockpile stewardship accounts. I have attempted to restore this scientific capability that is essential to the certification of our nuclear deterrent without the validation of underground testing.

For the benefit of the Senate, I will review the highlights of this bill.

The mark provides \$5.29 billion for the Army Corps of Engineers which is \$966 million above the budget request.

We have included new construction projects and initiated new study starts.

This bill ignores the OMB-developed formulation for the Corps as it would negatively impact rural projects and projects that have already begun construction.

This mark also ignores the administration's decision not to fund beach nourishment. These projects are very important to many communities and likewise members of the Senate.

For the Bureau of Reclamation, this bill provides just over \$1.08 billion, an increase of \$130 million above the President's request. This project support water projects in 17 Western States and provides \$60 million for Animas La Plata, an increase of \$8 million over the request. The committee provides full funding for Cal Fed of \$37 million, and provides the current year funding for Water 2025.

For the Department of Energy, the mark provides \$25.04 billion.



For nuclear weapons activities of the National Nuclear Security Administration), NNSA, the bill provides \$6.55 billion, which is \$76 million under the President's request.

This decrease is a result of the \$222 million transfer of cleanup operations out of the NNSA to the Office of Environmental Management and a reduction in the NIF construction program.

The committee mark increases are targeted to the science-based Stockpile Stewardship Program. Funding for the science, engineering and advanced computing campaigns are up \$164 million.

For nuclear nonproliferation activities the Senate bill provides \$1.7 billion, which is \$91.8 million above the request and \$236 million above the current year level.

I think it is also important to mention that this subcommittee mark fully funds the plutonium disposition program, including \$362.5 million for the construction of both the Pit Disassembly facility and well as Mixed Oxide Fuel Fabrication Facility in South Carolina.

This facility is our only pathway to permanently eliminate excessive and dangerous plutonium supplies. The NNSA spends tens of millions of dollars to protect this material that will not be necessary if we are able to turn plutonium into commercial nuclear fuel. It is our Nation's best opportunity to undertake reprocessing.

The administration is making good headway in negotiations with the Russians, which I believe warrants full funding of this critical project.

For the Yucca Mountain project, the Senate bill provides \$577 million, which is consistent with current year funding and \$65 million below the President's request.

This mark does not take a position on developing an interim storage facility. While I personally believe that a central interim storage facility makes sense, this bill is not the proper vehicle to have this debate.

For the Energy Supply and Conservation Programs the subcommittee mark provides \$1.9 billion, an increase of \$195 million above the request.

For nuclear energy R&D, the bill provides \$499.9 million, which is \$60 million above the President's request and \$64 million over the current year levels.

Also, Nuclear Power 2010, \$76 million, an increase of \$20 million and Advanced Fuel Concepts Initiative, \$85 million is provided, an increase of \$15 million.

For the Office of Science, the bill provides \$3.7 billion, an increase of \$240 million above the request and \$102 million above the current year level. We have provided \$100 million to ensure that DOE facilities operate at 100 percent capacity. A \$40 million increase has been provided to accelerate the four planned facilities under the Genomes to Life program. And \$30 million is provided to establish a nanotechnology transfer account.

For independent agencies, the mark provides: \$67 million for the Denali Commission; \$65.5 million for the Appalachian Regional Commission; \$12 million for the Delta Regional Authority, an increase of \$6 million over the President's request; and \$734 million for the Nuclear Regulatory Commission, an increase of \$41 million over the current year level.

Mr. President, to reiterate, I suggest there are many here worried about water projects and the Corps of Engineers. This is the bill for all American water projects, the Corps, the Bureau of Land Management, and any others. This bill funds that at a level of \$1.8 billion. That is \$130 million more than the President and \$63 million more than current level.

This bill covers the Department of Energy. It covers all of the stockpile stewardship activities. It covers non-proliferation activities. That is one for which the President has asked for substantial money.

Renewable R&D is in this bill with very substantial funding. There is nuclear research and development and, most importantly, we have substantially increased basic science research. This bill and this Department does a little more than one-third of the entire Nation's basic science funding. We thought this was a year to increase it, not decrease it. We have been told this is a time to increase it because we have increased funding for health sciences over the past 10 to 12 years but not basic science. We found money from other places to increase that.

This bill also includes money for nuclear waste disposal. That has been very difficult. It also has Yucca Mountain and has the cleanup. It also has three or four independent agencies.

Mr. REID. Mr. President, I rise in support of the fiscal year 2006 Energy and Water Appropriations Act as reported by the Committee on Appropriations on June 14, 2006.

This is a good bill, one that is fair to all of our Members and one that I am pleased to support. There is always more that can be done, but, given fiscal realities, this is a great effort. Chairman DOMENICI deserves enormous credit for putting together such a comprehensive and far-reaching bill.

My staff tells me that we have added nearly \$1.5 billion to this bill. I find that figure to be misleading. The vast majority of the dollars we have added to this bill have been used to undo budget gimmicks that were, as usual, submitted with the administration's request and that Congress has wisely chosen to reject.

More importantly, this bill corrects oversights and large-scale neglect on the part of the administration, particularly in regards to the U.S. Army Corps of Engineers.

When the administration sends up a budget that not only deletes the priorities of Congress, but also deletes their own priorities of just a few months ago, something is wrong.

Fully 65 percent of the funds added to this bill have been spent within the U.S. Army Corps of Engineers, mostly to try to restore cuts that would halt construction on hundreds of projects nationwide. Many of the construction projects slated for termination are in their final year of construction.

Only OMB could dream up a budget request that would forego tens of millions of dollars in future economic benefits to save a couple of bucks this year.

Chairman DOMENICI and I have heard our colleagues with unmistakable clarity:

Our Members want flood control projects to protect their citizens.

Our Members want navigation projects to allow goods and services to more easily get into the international marketplace.

Our Members want rural water projects that will allow rural Americans to have access to the same safe drinking water that our citizens in cities and suburbs take for granted.

We have heard our colleagues, and we have acted. My only regret is that we could not do more.

I am also delighted with the emphasis that Chairman DOMENICI has placed on science in this bill.

The Energy and Water bill contains one of the largest pots of funding for long-term research and development in the physical sciences to be found anywhere in our Federal Government. In fiscal year 2006, we will invest over \$3.7 billion in DOE's Office of Science, \$240 million more than the request.

The administration's request reduced user time on national science facilities to as few as zero to 5 weeks in many cases.

That is ridiculous. Year after year Congress shells out tens if not hundreds of millions of dollars to build world class scientific user facilities, such as the Spallation Neutron Source and others, and then the administration does not even bother to fund their operation. It just strikes me as amazingly short-sighted and disappointing.

However, I am very pleased that we have been able to restore optimum operations at all of these facilities nationwide without harming any of the other base programs.

Our bill also provides impressive funding for research and development in renewable energy, fossil energy, and nuclear energy. All in all, this is a balanced bill that will help us improve our Nation's energy future on many different fronts. As we all know, Chairman DOMENICI was able to send a comprehensive energy bill into conference earlier this week and that is a huge accomplishment. However, it is in this bill, the Energy and Water Appropriations Act, that the actual funding for energy research and development can be found. Authorizations are nice, but appropriated dollars are better.

As always, I would like to take a moment before wrapping up to thank the Energy and Water Subcommittee staff

for their fine work on this bill. First, Chairman DOMENICI hired a new clerk this year, Scott O'Malia. As always, the transition between clerks has been seamless. Also thanks to Emily Brunini who joined the subcommittee last year from Chairman COCHRAN's staff.

Roger Cockrell has had the unenviable task of working on water for both the majority and minority this year and has done an outstanding job for all 100 Members. I look forward to him returning to my staff next year.

Finally, thanks to Drew Willison and Nancy Olkewicz of my staff. They both do a great job for me on this bill, and Nancy also works for Senator DURBIN on the legislative branch bill.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 1085

Mrs. FEINSTEIN. Mr. President, on behalf of Senators KENNEDY, FEINGOLD, DORGAN, LEVIN, WYDEN, CLINTON, MIKULSKI, LAUTENBERG, BOXER, REED, HARKIN, and BIDEN, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself, Mr. KENNEDY, Mr. FEINGOLD, Mr. DORGAN, Mr. LEVIN, Mr. WYDEN, Mrs. CLINTON, Ms. MIKULSKI, Mr. LAUTENBERG, Mrs. BOXER, Mr. REED, Mr. HARKIN, and Mr. BIDEN, proposes an amendment numbered 1085.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit the use of funds for the Robust Nuclear Earth Penetrator and utilize the amount of funds otherwise available to reduce the National debt)

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. (a) PROHIBITION ON USE OF FUNDS FOR ROBUST NUCLEAR EARTH PENETRATOR.—None of the funds appropriated or otherwise made available by this Act may be used for any purpose related to the Robust Nuclear Earth Penetrator (RNEP).

(b) UTILIZATION OF AMOUNT FOR REDUCTION OF PUBLIC DEBT.—Of the amounts appropriated by this Act, an amount equal to the amount of funds covered by the prohibition in subsection (a) shall not be obligated or expended, but shall be utilized instead solely for purposes of the reduction of the public debt.

Mrs. FEINSTEIN. Mr. President, I was 13 years old when I saw this picture. When we discuss nuclear weapons, this is the picture I remember. The only country on Earth that has ever used nuclear weapons is our own. It has been debated ever since whether this was positive because it saved American troops and ended the war or whether it has launched our country and other countries into a race which well could prove disastrous for all of us.

This is a photograph of Hiroshima after the nuclear bomb was dropped on the city on August 6, 1945. Mr. Presi-

dent, 80,000 people died from the initial blast and 60,000 people died from radiation poisoning, for a total of 140,000 people dead. And that bomb was 15 kilotons.

The second photograph is of Nagasaki after August 9, 1945. Approximately 75,000 of the city's 240,000 residents were killed instantly. In total, approximately 100,000 people died in the blast.

I rise today once again to address a critical issue that is related to the security of the American people and our nuclear proliferation efforts: the renewed push by this administration to reopen the nuclear door, including funding for a 100-kiloton nuclear bunker buster.

I have argued this on the Senate floor before, that such actions, combined with the policy of unilateralism and preemption, run counter to our values and nonproliferation efforts and put U.S. national security interests and American lives at risk. Therefore, those of us who are cosponsors of this amendment wish to delete the \$4 million, for the study and development of the robust nuclear earth penetrator. The amendment redirects the funds for debt reduction.

The time has come for this Senate, like the House has done in this bill, to send a clear and unambiguous message to the White House and the Pentagon: We will not support funding for programs to develop new nuclear weapons.

Congress made a strong statement last year in deleting funding for the development of this nuclear bunker buster by eliminating \$27.5 million for the bunker buster, \$9 million for the advanced concepts initiative, which included the study of the development of low-yield weapons. This action was due in no small part to the leadership of Representative DAVID HOBSON, chairman of the House Appropriations Energy Committee. The House took a strong position of opposition and they are to be commended.

In fact, the House removed new nuclear weapons from all bills, including the Fiscal Year 2006 Defense authorization bill, the Fiscal Year 2006 Defense appropriations bill, and the 2006 Energy appropriations bill. This was a consequential victory for those of us who believe the United States sends the wrong signal to the rest of the world by reopening the nuclear door and beginning the testing and development of a new generation of nuclear weapons. That is why I was so disappointed to learn that the administration requested funds this year to resume the nuclear earth penetrator study.

As a matter of fact, this year Secretary Rumsfeld asked the Department of Energy to place the \$4 million in the energy budget and \$4.5 million in the defense budget, thereby splitting the amount requested for the bunker buster. He hoped to weaken opposition and split the budget between two Departments so that if it could not get funding in one, he could get it in the other.

The House had the foresight to reject this idea and has reasserted its determination not to move forward with the bunker buster study.

During its markup on the 2006 Defense authorization bill, the House Armed Services Committee eliminated all the Department of Energy funding for the RNEP, and transferred the \$4 million to the Air Force budget for work on a conventional nonnuclear version of the bunker buster. The House Armed Services Committee member, SILVESTRE REYES, stated: The committee took the "N," or "nuclear," out of the RNEP program.

Following the Armed Services Committee action, Chairman HOBSON and Representative ELLEN TAUSCHER led the effort to eliminate the Department of Energy funding of \$4 million for the bunker buster in its markup in the 2006 Energy and Water appropriations bill. That bill also eliminated funding for the modern pit facility and banned site selection for the facility in 2006.

Finally, the House 2006 Defense appropriations bill limits research for a bunker buster to a conventional program. These three actions by authorizers and appropriators, Republicans and Democrats alike, have dealt another blow to the administration's plans to develop new nuclear weapons and reinforced the clear intent of Congress that we should not go down that path because it will only encourage the very proliferation we are trying to prevent.

Why should the Senate continue to fund programs that are rapidly losing support in the House and the administration? Now the Senate has an opportunity to follow the House's lead. Senator KENNEDY and I and others have come to the floor to offer this amendment to do just that.

During previous debates on this issue, we have argued that according to the laws of physics, it is simply not possible for a missile casing on a nuclear warhead to survive a thrust into the earth to take out a hard and deeply buried military target without spewing millions of tons of cubic feet of radiation into the atmosphere. Consider this: A 1-kiloton nuclear weapon detonated 25 to 50 feet underground would dig a crater the size of Ground Zero in New York and eject 1 million cubic feet of radioactive debris into the air.

Given the insurmountable physics problems associated with burrowing a warhead deep into the earth, one would need a weapon with more than 100 kilotons of yield to destroy an underground target at a depth of 1,000 feet.

Now let me explain. The maximum feasible depth of a bunker buster is 35 feet. At that depth, a 100-kiloton bunker buster would scatter 100 million cubic feet of radioactive debris into the atmosphere. There is no known missile casing that can survive a 1,000-foot thrust into the Earth and avoid overwhelming and catastrophic consequences. That is a fact. There is not a single scientist who will say that.

The head of the National Nuclear Security Administration agrees.

At the March 2, 2005, House Armed Services Strategic Forces Subcommittee, Congresswoman ELLEN TAUSCHER asked Ambassador Linton Brooks, the following question:

I just want to know is there any way a [robust nuclear earth penetrator] of any size that we would drop would not produce a huge amount of radioactive debris?

The Ambassador replied:

No, there is not.

When Congresswoman TAUSCHER asked him how deep he thought a bunker buster could go, he answered:

... a couple of tens of meters, maybe. I mean certainly—I must apologize for my lack of precision if we in the administration have suggested that it was possible to have a bomb that penetrated far enough to trap all fallout. I don't believe that—I don't believe the law of physics will ever let that be true.

Here is the head of the National Nuclear Security Administration saying there is no way one can drive a missile casing deep enough to prevent radioactive spewing.

Let me just show what this means. For a 100-kiloton weapon, one would have to drive it 800 feet deep into the earth to contain the nuclear fallout. One can only drive it a small distance: 35 feet. So the result is 1.5 million tons of radioactivity. If it is 5 kilotons, one would have to drive it 320 feet. One could only drive it 35 feet. The spewing of radioactive debris is 200,000 tons. If it is 1 kiloton, one would have to drive it 220 feet. One could only drive it 35 feet and the radioactivity is 60,000 tons. If it is .2 kilotons, one would have to drive it 120 feet. One can only drive it 35 feet, and the radioactive spewing is 25,000 tons.

This is not from me. This is the National Academy of Sciences, nuclear scientists, physicists, the head of the National Nuclear Security Administration. There is widespread agreement about this. So why are we doing it?

On April 27, the National Academies of Sciences study commissioned by Congress to study the anticipated health and environmental effects of the Nuclear Earth Penetrator Weapon found that current experience and empirical predictions indicate that the Earth-penetrating weapons cannot penetrate to depths required for total containment of the effects of a nuclear explosion. It would take a 300-kiloton weapon at a penetration of 3 meters, or 10 feet, to destroy hard and deeply buried targets at 200 meters, or 656 feet.

To destroy a hard and deeply buried target at 300 meters you would need a 1-megaton weapon—not kiloton, megaton. The number of casualties from an Earth penetrator weapon detonated at a few meters depth is, for all practical purposes, equal to that of a surface burst of the same weapon yield.

That is what the National Academies of Sciences studies say. For attacks near or in densely populated areas, using Nuclear Earth Penetrator Weapons on hard and deeply buried targets,

the number of casualties can range from thousands to more than a million, depending primarily on weapon yield.

The bottom line is that a bunker buster cannot penetrate into the Earth deeply enough to avoid massive casualties and the spewing of millions of cubic feet of radioactive materials into the atmosphere. It would result in the death of up to a million people or more if used in a densely populated area.

This chart shows that. The source is the National Resources Defense Council and the EPA. What it shows is the predicted radioactive fallout from a B61-11 300-kiloton explosion in West Pyongyang, North Korea, using historical weather data for the month of May.

Here is the blast, here is Seoul, here is the radioactive fallout.

Why are we doing this? It makes no sense.

I think this is the strongest evidence to date that we should not move forward with this study and that we should put a stop to it once and for all. In reality, this has never been about a study. It has been about the intent of this administration to develop new nuclear weapons. While the administration is silent this year on how much it plans to spend on the program in the future, last year's budget request totaled \$485 million on the robust nuclear earth penetrator over 5 years. This 5-year figure was omitted this year.

Let's look, for a brief moment, at the policies underlying this request, for they, too, have not been changed. The 2002 Nuclear Posture Review places nuclear weapons—

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. FEINSTEIN. Mr. President, I yield myself another 5 minutes.

The 2002 Nuclear Posture Review places nuclear weapons as part of the strategic triad. Therefore, the aim is to blur the distinction between conventional and nuclear weapons. This makes them easier to use.

National Security Directive 17 indicates that the United States would engage in a first use of nuclear weapons—a historic statement in itself. We have never had a first-use policy. We have always had strategic ambiguity, but we have never before said we would ever countenance a first use of nuclear weapons. In Security Directive 17 it is said in response to a chemical or biological attack—and seven nations are actually named—we would consider a nuclear response. In essence, these policies encourage other nations, and they have encouraged North Korea and they have encouraged Iran—those are two of the nations suggested—to develop their own nuclear weapons, thereby putting American lives and our own national security interests at risk.

We are telling the world, when it comes to nuclear weapons: Do as we say, not as we do. I object to that policy. It is hypocrisy.

There are alternatives. I have just been briefed by Northrop Grumman on

a program they are working on with Boeing to develop a conventional bunker buster, the Massive Ordnance Penetrator, which is designed to go deeper than any nuclear bunker buster and take out 25 percent of underground and deeply buried targets. This 30,000-pound weapon, 20 feet in length, with 6,000 pounds of high explosives, will be delivered from a B-2 or a B-52 bomber. It can burrow 60 meters into the ground through 5,000 psi of reinforced concrete. It will burrow 8 meters into the ground through 10,000 psi reinforced concrete.

We have already spent \$6 million on this program, and design and ground testing are scheduled to be completed next year.

We should focus on conventional programs. The House has said this. The Senate should concur.

We have a solemn obligation to spend our resources in the most effective manner and to make this country safer and more secure. That is why I am so concerned about this administration's decision to come back to Congress and request additional funds for new nuclear weapons.

I would like to give my kudos and congratulations to the House of Representatives. They truly have their heads on straight. I am delighted that they have eliminated the authorization and the funding for this entire program in the 2006 appropriation. I urge us to do the same on just one part of this, which is the nuclear bunker buster, \$4 million.

I yield 15 minutes to the distinguished Senator from Massachusetts, Senator KENNEDY.

Mr. KENNEDY. I thank the Senator. I think I had consent for a half-hour. I do not expect to use it all.

Mrs. FEINSTEIN. The Senator is right. I change that to a half-hour.

Mr. KENNEDY. First, I commend my friend and colleague, Senator FEINSTEIN, for her attention to this issue. She has long been an advocate for sensible and responsible nuclear arms policy. Again, this evening, she is leading the way in the Senate. All of us are grateful for her leadership. I welcome the opportunity to join with her in offering this amendment.

It is intended to reverse a reckless proposal by the Bush administration to develop a new generation of nuclear weapons.

We do not "provide for the common defense," as called for in our Constitution, by launching a new nuclear arms race and making the world more dangerous, but that is precisely what the administration plans to do.

President Bush and Secretary Rumsfeld want to develop a new tactical nuclear weapon called the robust nuclear earth penetrator, and their hope is that these bunker busters can crash deep into the Earth and destroy bunkers and weapons caches. They hold the dangerous and misguided belief that our Nation's interests and values are served by developing what they consider a more easily usable nuclear bomb.

I think most Americans believe that is wrong. Our challenge in addressing nuclear nonproliferation issues is not that there are too few nuclear weapons in the world but that there are too many; not that they are too difficult to use but that they are too easy to use.

North Korea has them and is rattling its nuclear saber every day. Iran is moving forward on the development of nuclear capability. We all hope and pray that al-Qaida and other terrorist groups never ever get their hands on a nuclear weapon.

So why on Earth, in this dangerous nuclear world, with the specter of a nuclear cloud at the hands of terrorists and rogue states, should the United States be adding more nuclear weapons to the global arsenal? What moral authority do we have to ask others to give up their nukes if we are determined to develop a new generation of nuclear weapons of our own?

For the past 2 years, Congress has raised major doubts about the program and significantly cut back on its funding. But the administration still presses forward for more work on these robust nuclear earth penetrators. Last year, the administration requested \$15 million for it and Congress reluctantly provided half that amount. For 2005, they requested another \$27 million and submitted a 5-year request for nearly \$500 million. But cooler heads prevailed, and the House Appropriations Committee rejected the request. As the committee report stated,

The Committee continues to oppose the diversion of resources and intellectual capital away from the most serious issues that confront the management of the nation's nuclear deterrent . . . The Committee remains unconvinced by the Department's superficial assurance that the RNEP activity is only a study . . . The Committee notes that the management direction for the fiscal year 2004 sent to the directors of the weapons design laboratories left little doubt that the objective of the program was to advance the most extreme new nuclear weapon goals irrespective of any reservations expressed by Congress.

This year, nothing has changed. The FY06 budget request from the President includes \$4 million for the Department of Energy to study the bunker buster and \$4.5 million to the Department of Defense for the same purpose. Thankfully our colleagues in the House were wiser and decided to eliminate its funding.

The administration obviously is still committed to this reckless approach. Secretary Rumsfeld made his position clear in January, when he wrote to Secretary Abraham:

I think we should request funds in FY06 and FY07 to complete the RNEP study . . . You can count on my support for your efforts to revitalize the nuclear weapons infrastructure and to complete the RNEP study.

The fiscal year 2006 budget requests funds only to complete the feasibility study for these new nuclear weapons. But we already know what the next step is. In the budget they sent us last year, the administration stated in

plain language that they intend to develop it.

Ambassador Linton Brooks, the head of the National Nuclear Security Administration, claims those future budget projections are merely placeholders, "in the event the President decides to proceed with development and Congress approves." But their fiscal year 2005 budget clearly shows the administration's unmistakable intention to develop, and ultimately produce, this weapon.

The Bush administration would like us to believe that this is a clean, surgical nuclear weapon. They say it will burrow into underground targets and destroy them with no adverse consequences for the environment. They can believe all they want, but the science says their claims are false.

The National Academy of Sciences confirms exactly what most of us thought—that these nuclear weapons, like other nuclear bombs, result in catastrophic nuclear fallout. The fallout can poison tens of millions of people and create radioactive lands for years and years to come.

The study goes on to say, "Current experience and empirical predictions indicate that earth-penetrator weapons cannot penetrate to depths required for total containment of the effects of a nuclear explosion. . . .

To be fully contained, a 300 kiloton weapon would have to be detonated at the bottom of a carefully stemmed emplacement hole about 800 meters deep. Because the practical penetration depth for an earth penetrating weapon is a few meters—a small fraction of the depth for the full containment—there will be blast, thermal, initial nuclear radiation, and fallout effects from use of an EPW.

This chart simulates the likely nuclear fallout from a one megaton bunker-buster detonated at a hypothetical underground target 20 kilometers east of an Iranian air force base in Dezful. This model uses the same simulation program as the Pentagon's Defense Threat Reduction Agency. During summer months, the nuclear fallout is predicted to travel 150 to 200 miles, across Iraq and Saudi Arabia. The radiation could kill up to 650,000 people.

Even the person in charge of the program, Linton Brooks, conceded at a House Armed Services Committee Hearing on March 2 that the robust nuclear earth penetrator could not be used without significant nuclear fallout. He stated:

I really must apologize for my lack of precision if we in the Administration have suggested that it was possible to have a bomb that penetrated far enough to trap all fallout. I don't believe that—I don't believe the laws of physics will ever let that be true.

This chart depicts a 400 kiloton bunkerbuster hitting underground facilities at North Korea's Air Base at Nuchon-ni. Fallout from this explosion would blow southeast across the DMZ towards Seoul. This attack could kill over 4 million people.

Even if the United States were willing to accept the catastrophic damage a nuclear explosion would cause, the bunkerbuster would still not be able to destroy all of the buried bunkers the intelligence community has identified.

So we would have a new bomb that can kill and poison tens of millions of civilians, spread fallout for more than a thousand miles, make their lands radioactive, but still not destroy its target.

The huge, one megaton weapon that the administration is contemplating cannot reach deeper than 400 meters. All an adversary would have to do is bury its bunker below that depth.

Bunkerbusters also require pinpoint accuracy to hit deeply-buried, hardened bunkers. This requires precise intelligence on the location of the target. As the National Academy Study emphasized, an attack by a nuclear weapon would be effective in destroying weapon or weapons materials, including nuclear materials and chemical or biological agents, only if it's detonated in the actual chamber where the weapons or materials are located. Even more disturbing, if the bomb is even slightly off target, the detonation may cause the spread of such deadly chemicals and germs, in addition to the radioactive fallout.

As we know from the Iraq experience, our intelligence isn't always accurate. In fact, the Bush administration told us there were weapons of mass destruction and there and we had to send in troops to take them out. If we had robust nuclear earth penetrators at the time, what if this White House had used them against suspected chemical or biological bunkers—which turned out not to exist? Charles Duelfer, the head of the Iraqi Survey Group, shows us how dangerous this approach could have been when he told the Senate Armed Services Committee last October that, we were almost all wrong on Iraq. Despite the administration's claims, Mr. Duelfer's Comprehensive Report on Iraq's WMD stated, "There are no credible indications that Baghdad resumed production of chemical weapons.

The intelligence community still faces many challenges in getting its intelligence right. In their report in March for the President's Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, Laurence Silberman and Chuck Robb found that The flaws we found in the Intelligence Community's Iraq performance are still all too common. In some cases, it knows less now than it did five or ten years ago.

How can we contemplate using a weapon of this destructive power, if our intelligence can't guarantee where an underground target really is?

Finally, if it were clear that this weapon is needed to protect our troops, then I believe many more in Congress would support it. But that's not the case. At the House Armed Services

Committee hearing in March, program chief Linton Brooks once again was asked if there was a military requirement for the bunker buster. He stated categorically, No, there is not.

Robert Peurifoy, the retired Vice President of Sandia National Laboratory, one of our premier nuclear weapons labs, had this to say: If you can find somebody in a uniform in the Defense Department who can talk about the need for nuclear bunker busters without laughing, I'll buy him a cup of coffee. It's outlandish. It's stupid. It is an effort to maintain a payroll at the weapons labs.

The administration's effort to build a new class of nuclear weapon is only further evidence of their reckless nuclear policy. This action contradicts the spirit of our obligations under the nonproliferation treaty to disarm our stockpiles.

It demonstrates the administration's contempt for the nuclear nonproliferation treaty, the foundation of all current global nuclear arms control. The nonproliferation treaty, signed in 1968, has long stood for the fundamental principle that the world will be safer if nuclear proliferation does not extend the five nations that nations can possess nuclear weapons at the does not extend beyond the five nations that possessed nuclear weapons at that time—the United States, Great Britain, the Soviet Union, China, and France. It reflected the worldwide consensus that the greater the number of nations with nuclear weapons, the greater the risk of nuclear war.

The Bush administration's policy jeopardizes the entire structure of nuclear arms control so carefully negotiated by world leaders over the past half century, starting with the Eisenhower administration. This is just another example of the administration's Do as I say, not as I do policy.

How can we ask Iran and North Korea to halt their nuclear research, when we fail to halt our own? By proceeding with the Robust Nuclear Earth Penetrator, we are headed in the wrong direction. Our efforts will only encourage other nations to follow our example and produce nuclear weapons of their own.

We have studied this issue long enough. It is ridiculous for the administration to try to keep this program going, and it could be suicidal for the Nation and for our troops. If we need this kind of weapons system, we ought to follow the conventional weapons research that is being undertaken and not support this proposal. I hope the Senate will reject it.

Mr. President, I yield the time back to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the distinguished Senator from Massachusetts. I thought the remarks were excellent. I think they were really right on. The tragedy of this is that people do not listen. I hope, Senator KENNEDY, your words were heard.

Mr. President, I yield 15 minutes to the Senator from Michigan, Mr. LEVIN.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank the Senators from California and Massachusetts and others who have come to the floor at this late hour to argue and debate an issue which is so critical to the security of this Nation.

We will be a lot less secure if we go down this nuclear road. We know other countries are going down the nuclear road. We know we are even threatening those countries—such as Iran and North Korea—that we will not let them go down that road. We are even holding out the prospect that they would be the subject of military attacks if they go down the nuclear road.

But at the same time we are doing this, that we are telling the world, we are telling Iran, we are telling North Korea, "Do not walk down that nuclear road," the administration is proposing to take another step down our nuclear road. It is a decision which, if upheld by this body, will make us less secure. It will make it more likely that North Korea and Iran will say to us, and say to the world: The United States threatens us if we go to nuclear weapons, but they themselves are relying more and more and more on nuclear weapons.

The administration has asked for \$4 million to restart the feasibility study for the robust nuclear earth penetrator. I emphasize "restart" because we ended this mistake in fiscal year 2004. We should not restart this. We did not need it in 2005. We do not need it in 2006.

The \$4 million that the Department of Energy seeks for fiscal year 2006 will not finish the study. An additional \$14 million will still be needed in fiscal year 2007, just to finish the RNEP study.

What is it that the Department of Energy wants to study? What is the weapon they want to study? What is the RNEP appropriation for? It is to look at modification of a nuclear bomb called the B83. That is what is being looked at as a possible earth-penetrating weapon, the RNEP. The B83 is a large nuclear bomb. It is huge. It has a maximum yield on the order of 1 megaton. And 1 megaton is the equivalent of 71 Hiroshima bombs.

So the weapon they are looking at, or want to look at, to modify for this function, is a bomb that has the power, the yield, as they call it, of 71 Hiroshima bombs. The goal of that feasibility study is to increase the penetrating capability of the B83. The yield, the power, of the B83, would stay the same. That is not being reduced. So the idea is to see whether or not that B83—that bomb with the power of 71 Hiroshimas—can be made to penetrate the earth.

According to the report of the National Academy of Sciences, it will not be possible, no matter how good the design. The deepest that an RNEP could ever penetrate is about 12 feet. And

when an RNEP detonates at 12 feet, 12 feet in the earth, it will generate, according to the National Academy of Sciences, more fallout than if it were exploded in the air. So if we go down this road, we will be looking at a weapon which cannot penetrate deeper than 12 feet in the earth and will have greater fallout than if it were exploded in the air, according to the National Academy of Sciences.

We talk about collateral damage as though it is some kind of a cold term. This is damage which is so massive. We think of a weapon 71 times the size of Hiroshima, with more fallout than if it were exploded in the air, which—no matter what its design; even if this study is successful—cannot penetrate more than about 12 feet in the ground, and we are telling the rest of the world, "Do not go down that nuclear road," when we ourselves are thinking—thinking about designing a weapon which has that kind of a power and that kind of a fallout.

It is not the hundreds of millions of dollars which this would cost to implement, assuming this study is completed, it is the absurdity, it is the utter nonsense, it is the danger to U.S. security that would be created if we take this step down the road, telling the world: Do not do what we urge you to do because we are not doing it ourselves. That is the message. We can tell the world, Do not do it, do not go nuclear, but what they are going to say to us is: Hey, you are going nuclear further than you already are. You are modifying weapons to try to make them "usable" against deeply buried targets. And you are telling us and the rest of the world we should not go nuclear when you are looking for more and more uses for nuclear weapons?

We asked the National Academy of Sciences to look at this program. We asked them how much yield would an RNEP have to have to hold a deeply buried target at risk, and what would the effects be of using an RNEP? So the Academy reviewed the universe of hard and deeply buried targets and found you would have to have a huge yield to have any effect on deeply buried targets. What the Academy concluded was that yields in the range of several hundreds of kilotons to a megaton are needed to effectively hold hard and deeply buried targets at risk.

This report was issued this year, in April of 2005. What it said is that to be effective against a target 1,000 feet deep, an RNEP would have to have a yield of 1 megaton.

There are 10,000 hard and deeply buried targets in the world, about 10,000. According to the National Academy of Sciences, 2,000—2,000—of those targets would have some strategic significance. But the Academy finds that on the order of only about 100 deeply buried targets would be potential targets for RNEP. And many others—many others—would be too deep to even reach with a 1-megaton yield such as RNEP has.

So what this study would have us do is spend more millions, take us down a road which endangers us because of the message it sends to countries that are contemplating nuclear weapons. It endangers our security to study a weapon that cannot succeed in achieving its goal of hitting many deeply buried targets. And it would have an extensive fallout because of its huge size, 71 times the size of Hiroshima.

Mr. WARNER. Mr. President, will the Senator yield for a question?

Mr. LEVIN. I would be happy to yield.

Mr. WARNER. My distinguished colleague on the Armed Services Committee is fully aware that we have worked on this matter for several years. There is an existing law that we passed on our bill. But the simple, basic, elementary thing here is we are talking about a study. And our distinguished colleagues from California, Massachusetts, and yourself make allegations of a lot of facts. What is the harm in getting the study? The study may confirm the very facts, and then the Senate is well informed. And the Congress must pass on any dollars before this thing proceeds to a full test situation.

The PRESIDING OFFICER. The Senators are advised to ask their questions through the Chair.

Mr. WARNER. Mr. President, I am sorry, I did not hear the ruling of the Chair.

The PRESIDING OFFICER. The Senators are advised to address their questions through the Chair, not directly from Senator to Senator.

Mr. WARNER. The Presiding Officer is most correct. I extend my apologies to the Presiding Officer of the Senate.

Mr. President, I asked if the Senator would yield for a question. I thought I said that.

Mr. LEVIN. I am happy to yield for a question.

Mr. WARNER. Why not have the study so the Senate and the Congress can all be well informed? And it will either verify or there will be a denial of the assertions made by our three colleagues who are in opposition, and possibly a fourth.

It is interesting. We modified one of the weapons during the Clinton administration, and it was approved by that administration. But it was later determined that that weapon could not effectively deal with a hardened silo. I ask my good friend the question.

Mr. LEVIN. I thank my friend from Virginia for the question. First of all, it is not three Senators who are making these assertions. It is the National Academy of Sciences which has made these assertions we are quoting. That is No. 1. No. 2, the message which is being sent by going down this road endangers the security of the United States. We are telling other countries—North Korea, Iran—do not go nuclear. That is our message. It is a very clear message. The President is even threatening military action. He is saying he

is going to have to put that option on the table if they go nuclear. Then at the same time the administration wants to restart a program, the program in this case being a study of a deeply penetrating nuclear weapon that has 70 times the power of Hiroshima in order to get to deeply buried targets. There are 10,000 of those targets, according to the National Academy of Sciences, and perhaps 100 of them would be held at risk by this weapon.

So the idea that we are taking another step—you call it a study, but it is a step down the road, because the purpose of the study is to at least consider doing something. What we are saying, what the National Academy of Sciences has said, is this cannot accomplish its purpose. It will have a huge fallout. And what we are saying is the possibility that you could ever consider doing this is so far outweighed by the danger to us, by the message which is being sent to the world, that we are walking down a road we are telling others do not walk. That is the danger.

Mr. WARNER. In reply to my colleague, I refer to a letter from the Secretary of State a year ago: Dear Mr. Chairman—addressed to me—I am writing to express support for the President's 2004 budget request to fund the feasibility and cost study for the robust nuclear earth penetrator and to repeal the legislation that prohibits the United States from conducting research and development on low-yield nuclear weapons. I do not believe that these legislative steps will complicate our ongoing efforts with North Korea. And he goes on to explain the North Koreans will not be in any way deterred by this action of the United States to have a study.

Mr. LEVIN. I would expect the administration would say something like that. But common sense tells us otherwise. Common sense tells you that if you are sitting down with people, in this case the Europeans, telling them we have to try to persuade Iran, don't go down that road, with the Japanese and the Russians and the Chinese sitting down with the North Koreans, do not go down that road, each of us has some experience as human beings. It seems to me it is absolute common sense that we will be confronted by those countries saying: You are lecturing us, threatening us, when you yourself are now looking at the possibility of redesigning a weapon 70 times the size of Hiroshima so that you can more deeply penetrate into the ground. It undermines our position. It weakens our position. It seems to me that means it weakens our security.

Mr. WARNER. Mr. President, I could only say to my distinguished colleague, the Secretary of Defense Colin Powell, a man who has been held in high esteem by this body, disagrees respectfully with my good colleague from Michigan. But the effect of denying a study on this is simply saying to the world, where there are countries pro-

ceeding with nuclear programs, you can go deep. There is no deterrence on the horizon. It is off limits, and you can do as you wish and go deep, and you can then conceal your programs from the eyes of the world and there is no deterrence for them to go deep.

Mr. LEVIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Thirty seconds.

Mr. LEVIN. I reserve the balance of my time.

The PRESIDING OFFICER. The Senator from California.

Mr. DOMENICI. Will the Senator yield?

Mrs. FEINSTEIN. Yes.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENTS NOS. 1088 THROUGH 1096, EN BLOC

Mr. DOMENICI. Mr. President, I ask unanimous consent that the pending amendment be set aside so that I may offer a managers' amendment which has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I send to the desk a series of amendments, all of which have been approved on both sides, some of which are technical, some are otherwise, but there are no objections.

The PRESIDING OFFICER. Is there objection to consideration of the amendments en bloc?

Without objection, it is so ordered.

Without objection, the amendments are agreed to en bloc.

The amendments (Nos. 1088 through 1096) were agreed to, as follows:

AMENDMENT NO. 1088

(Purpose: To maintain funding for the Department of Energy Clean Cities Program at its current level)

At Page 80, after the provision for Clean Coal Technology, insert the following:

CLEAN CITIES PROGRAM

Funding for the Clean Cities program may be provided at no less than the current year level. Within the Clean Cities program, funding for work to expand E-85 fueling capacity may also be maintained at no less than the current year level.

AMENDMENT NO. 1089

(Purpose: To provide funds for sea lamprey barrier construction in the Great Lakes)

On page 66, between lines 18 and 19, insert the following:

SEC. 1 \_\_\_\_\_. Of funds made available to carry out section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a), the Chief of Engineers may use \$1,500,000 for sea lamprey barrier construction in the Great Lakes.

AMENDMENT NO. 1090

(Purpose: Provide funds for Saco River project)

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. \$150,000 may be provided for Saco River and Camp Ellis Beach, Maine, continuing authorities project.

AMENDMENT NO. 1091

(Purpose: Provide dredging funds for the Narragausus River)

At the appropriate place, insert the following:

SEC. \_\_\_\_\_. \$2,000,000 may be provided for maintenance dredging of the Narragausus River, Milbridge, ME.



## AMENDMENT NO. 1092

(Purpose: Provide funding for a reconnaissance study)

At the appropriate place, insert the following:

SEC. \_\_\_\_ \$100,000 may be provided for the Penobscot River Restoration Study, ME.

## AMENDMENT NO. 1093

(Purpose: To set aside funds to initiate preconstruction engineering and design activities for modifications to Laupahoehoe Harbor, Hawaii)

On page 68, line 22, before the period, insert the following: “: *Provided further*, That, of the funds appropriated under this heading, the Secretary of the Army, acting through the Chief of Engineers, shall use not less than \$200,000 to initiate, preconstruction engineering and design activities for modifications to Laupahoehoe Harbor, Hawaii”.

## AMENDMENT NO. 1094

(Purpose: To provide funding for Advanced Scientific Computing Research)

On page 86, line 17; insert after “expended” the following:

: *Provided*, That \$250,055,000 is appropriated for the Advanced Scientific Computing Research: *Provided further*, That \$43,000,000 may be provided to the Center for Computational Sciences at Oak Ridge National Laboratory: *Provided further*, That \$500,000 may be provided to the Medical University of South Carolina: *Provided further*, That \$500,000 may be provided to the Community College of Southern Nevada Transportation Academy: *Provided further*, That \$3,000,000 may be provided to South Dakota State University.

## AMENDMENT NO. 1095

(Purpose: Making technical corrections for NNSA security)

In the Bill, strike everything after “buses;” on page 90, line 14, and replace with: \$6,574,024,000 to remain available until expended: *Provided*, That the \$65,564,000 is authorized to be appropriated for Project 01-D-108, Microsystems and Engineering Science Applications (MESA), Sandia National Laboratories, Albuquerque, New Mexico: *Provided further*, that \$65,000,000 is authorized to be appropriated for Project 04-D-125, Chemistry and Metallurgy Research Building Replacement project, Los Alamos Laboratory, Los Alamos, New Mexico.

## DEFENSE NUCLEAR NONPROLIFERATION

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense, defense nuclear nonproliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$1,729,066,000 to remain available until expended.

## NAVAL REACTORS

For Department of Energy expenses necessary for naval reactors activities to carry out the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition (by purchase, condemnation, construction, or otherwise) of real property, plant, and capital equipment, facilities, and facility expansion, \$799,500,000, to remain available until expended.

## OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Office of the Administrator in the National Nuclear Security Administration, including official reception and representation expenses not to exceed \$12,000, \$343,869,000, to remain available until expended.

## ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

## DEFENSE ENVIRONMENTAL CLEANUP

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental cleanup activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$6,366,771,000, to remain available until expended.

## OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses, necessary for atomic energy defense, other defense activities, and classified activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed ten passenger motor vehicles for replacement only, including not to exceed two buses; \$645,001,000, to remain available until expended.

On page 55, line 3, strike all after the colon to the end of the section and insert the following:

“in accordance with the Baltimore Metropolitan Water Resources Gwynns Falls Watershed Study—Draft Feasibility Report and Integrated Environmental Assessment prepared by the Corps of Engineers and the city of Baltimore, Maryland, dated April 2004.”

On page 84 of the bill, line 18, strike “\$36,000,000” and insert in lieu thereof “\$46,000,000”.

On page 105, line 3, insert the following:

SEC. \_\_\_\_ That the Committee directs the Government Accountability Office to undertake a study of the Office of Science Fusion Energy program in order to define the roles of the major domestic facilities, DIHD, Alcator C-Mod, and NSTX in the support of the International Thermoelectric Reactor program, including making recommendations that may include the possible shutdown or consolidation of operations or focus of these facilities to maximize their value to the International Thermoelectric Reactor program: *Provided*, That given the major international commitment to International Thermoelectric Reactor and the tokamak concept, the GAO shall consider any other magnetic fusion confinement system as a possible fusion demonstration facility that will follow International Thermoelectric Reactor and given the major National Nuclear Security Administration investment in the physics of Inertial Confinement Fusion, the GAO shall evaluate the opportunities for the Office of Science to develop the appropriate science and technology to leverage the National Nuclear Security Administration investment as an alternative to the tokamak concept.

## AMENDMENT NO. 1096

(Purpose: To limit the use of funds for fully-funded contracts)

On page 109, between lines 2 and 3, insert the following:

SEC. 5 \_\_\_\_ None of the funds made available by this or a prior Act shall be used to award a fully-funded continuing contract, in a case in which continuing contract authority is applicable, unless the Chief of Engineers certifies that—

(1) the contract can be awarded and completed in the same fiscal year;

(2) the contract can be completed shortly after the end of the fiscal year in which the

contract was awarded, but only if the amount necessary to fully fund the contract is identified as surplus, or excess, to the program needs of that fiscal year; or

(3) future funding for the project is uncertain.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## TANF EXTENSION ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3021 which was received from the House.

Mr. SESSIONS. Reserving the right to object, is this the TANF?

Mr. FRIST. This is the TANF extension.

Mr. REID. Mr. President, it is my understanding it is a 3-month clean extension.

Mr. FRIST. That is correct.

Mr. SESSIONS. I have no objection.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3021) to reauthorize the Temporary Assistance for Needy Families block grant program through September 30, 2005, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3021) was read the third time and passed.

## SURFACE TRANSPORTATION EXTENSION ACT OF 2005, PART II

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3104 which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3104) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.