S. 3258

[Report No. 110–416]

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

IN THE SENATE OF THE UNITED STATES

JULY 14, 2008

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

A BILL

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

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated, for the
5 fiscal year ending September 30, 2009, for energy and
6 water development and for other purposes, namely:
shall use $4,000,000 for Silver Lake water transmission improvements.

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

Energy Efficiency and Renewable Energy

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for energy efficiency and renewable energy activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed two passenger vehicles for replacement, $1,928,259,000, to remain available until expended: Provided, That of the amount appropriated in this paragraph, $124,150,000 shall be used for projects specified in the table that appears under the heading “Congressionally Directed Energy Efficiency and Renewable Energy Projects” in the report of the Committee on Appropriations of the United States Senate to accompany this Act.
ELECTRICITY DELIVERY AND ENERGY RELIABILITY

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for electricity delivery and energy reliability 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, $166,900,000, to remain available until expended:

Provided, That of the amount appropriated in this paragraph, $12,900,000 shall be used for projects specified in the table that appears under the heading “Congressionally Directed Electricity Delivery and Energy Reliability Projects” in the report of the Committee on Appropriations of the United States Senate to accompany this Act.

NUCLEAR ENERGY

(INCLUDING TRANSFER OF FUNDS)

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for nuclear energy activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisi-
tion, construction, or expansion, and the purchase of not
to exceed 29 passenger motor vehicles, including three new
buses and 26 replacement vehicles, including one ambu-

lance, $803,000,000, to remain available until expended:

Provided, That of the amount appropriated in this para-

graph, $3,000,000 shall be used for projects specified in

the table that appears under the heading “Congressionally

Directed Nuclear Energy Projects” in the report of the

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

CLEAN COAL TECHNOLOGY

(TRANSFER OF FUNDS)

Of the funds made available under this heading for

obligation in prior years, $149,000,000 of uncommitted

balances are transferred to Fossil Energy Research and

Development to be used until expended: Provided, That

cfunds 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

(INCLUDES TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy

research and development activities, under the authority

of the Department of Energy Organization Act (Public

Law 95–91), including the acquisition of interest, includ-
defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, and for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), $876,730,000, to remain available until expended, of which $149,000,000 shall be derived by transfer from “Clean Coal Technology”: Provided, That of the amounts provided, $232,300,000 is available for the Clean Coal Power Initiative Round III solicitation, pursuant to title IV of the Public Law 109–58: Provided further, That funds appropriated for prior solicitations under the Clean Coal Technology Program, Power Plant Improvement Initiative, Clean Coal Power Initiative, and FutureGen, but not required by the Department to meet its obligations on projects selected under such solicitations, may be utilized for the Clean Coal Power Initiative Round III solicitation under this Act in accordance with the requirements of this Act rather than the Acts under which the funds were appropriated: Provided further, That no Clean Coal Power Initiative project may be selected for which full funding is not available to provide for the total project: Provided further, That if a Clean Coal Power Initiative project selected after enactment of this legislation for ne...
1. negotiation under this or any other Act in any fiscal year, 
2. is not awarded within 2 years from the date the applica-
3. tion was selected, negotiations shall cease and the Federal 
4. funds committed to the application shall be retained by 
5. the Department for future coal-related research, develop-
6. ment and demonstration projects, except that the time 
7. limit may be extended at the Secretary's discretion for 
8. matters outside the control of the applicant, or if the Sec-
9. retary determines that extension of the time limit is in 
10. the public interest: Provided further, That the Secretary 
11. may not delegate this responsibility for applications grea-
12. ter than $10,000,000: Provided further, That financial as-
13. sistance for costs in excess of those estimated as of the 
14. date of award of original Clean Coal Power Initiative fi-
15. nancial assistance may not be provided in excess of the 
16. proportion of costs borne by the Government in the origi-
17. nal agreement and shall be limited to 25 percent of the 
18. original financial assistance: Provided further, That at 
19. least 50 percent cost-sharing shall be required in each 
20. budget period of a project: Provided further, That in ac-
21. cordance with section 988(e) of Public Law 109–58, re-
22.payment of the DOE contribution to a project shall not 
23. be a condition of making an award under this solicitation: 
24. Provided further, That funds shall be expended in accord-
25. ance with the provisions governing the use of funds con-
tained 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 any technology selected under these programs shall be considered a Clean Coal Technology, and any project selected under these programs 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 in this Act and future Acts, 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 Fossil Energy account: Provided further, That in this Act and future Acts, the salaries for Federal employees performing research and development activities at the National Energy Technology Laboratory can continue to be funded from any appropriate DOE program accounts: 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 De-
velopment 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: Provided further, That no funds appropriated for FutureGen under prior Acts shall be available to support projects under the Department of Energy’s competitive, restructured FutureGen solicitation: Provided further, That of the amount appropriated in this paragraph, $32,700,000 shall be used for projects specified in the table that appears under the heading “Congressionally Directed Fossil Energy Projects” in the report of the Committee on Appropriations of the United States Senate to accompany this Act.

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, $19,099,000, 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.

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.), $205,000,000, to remain available until expended, of which $31,507,000 shall be provided to initiate new site expansion activities, beyond land acquisition, consistent with the budget request.

NORTHEAST HOME HEATING OIL RESERVE

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

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $110,595,000, 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, $269,411,000, to remain available until expended: Pro-
vided, That $12,500,000 is appropriated for environ-
mental remediation activities associated with the Energy
Technology and Engineering Center (ETEC) at the Santa
Susana Field Laboratory (SSFL), subject to the following:
(1) the Department shall use a portion of this funding
to enter into an interagency agreement with the Environ-
mental Protection Agency (EPA) regarding a comprehen-
sive radioactive site characterization of Area IV of the
SSFL and (2) the Department shall provide the amount
required by EPA for the radioactive site characterization
in fiscal year 2009 from within the available funds: Pro-
vided further, That of the amount appropriated in this
paragraph, $3,000,000 shall be used for projects specified
in the table that appears under the heading “Congres-
sionally Directed Non-Defense Environmental Cleanup
Projects” in the report of the Committee on Appropria-
tions of the United States Senate to accompany this Act.

URANIUM ENRICHMENT DECONTAMINATION AND
DECOMMISSIONING FUND

For necessary expenses in carrying out uranium en-
richment facility decontamination and decommissioning,
remedial actions, and other activities of title II of the
Atomic Energy Act of 1954, as amended, and title X, sub-
title A, of the Energy Policy Act of 1992, $515,333,000,
to be derived from the Fund, to remain available until expended.

**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 49 passenger motor vehicles for replacement only, including one law enforcement vehicle, one ambulance, and three buses, $4,640,469,000, to remain available until expended: Provided, That of the amount appropriated in this paragraph, $58,500,000 shall be used for projects specified in the table that appears under the heading “Congressionally Directed Science Projects” in the report of the Committee on Appropriations of the United States Senate to accompany this Act.

**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 “NWPA”), including the acquisition of real property or facility construction or ex-
pansion, $195,390,000, to remain available until ex-
pended, and to be derived from the Nuclear Waste Fund:
Provided, That of the funds made available in this Act
for Nuclear Waste Disposal, $5,000,000 shall be provided
to the State of Nevada solely for expenditures, other than
salaries and expenses of State employees, to conduct sci-
entific oversight responsibilities and participate in licens-
ing 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 NWPA,
$1,000,000 shall be provided to Nye County, Nevada, for
on-site oversight activities under section 117(d) of that
Act: Provided further, That $9,000,000 shall be provided
to affected units of local government, as defined in the
NWPA, to conduct appropriate activities and participate
in licensing activities: Provided further, That of the
$9,000,000 provided 7.5 percent of the funds provided
shall be made available to affected units of local govern-
ment in California with the balance made available to af-
fected units of local government in Nevada for distribution
as determined by the Nevada units of local government.
This funding shall be provided to affected units of local
government, as defined in the Act: Provided further, That
$500,000 shall be provided to the Timbisha-Shoshone
Tribe solely for expenditures, other than salaries and ex-
penses of tribal employees, to conduct appropriate activi-
ties and participate in licensing activities under section
118(b) of the NWPA. The Committee requires the entities
to certify 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 of the affected units of local government shall provide
certification to the Department of Energy that all funds
expended from such payments have been expended for the
activities authorized by the Act and this Act: Provided fur-
ther, That notwithstanding the provisions of chapters 65
and 75 of title 31, United States Code, the Department
shall have no monitoring, auditing or other oversight
rights or responsibilities over amounts provided to affected
units of local government: Provided further, That the
funds for the State of Nevada shall be made available sole-
ly to the Nevada Division of Emergency Management by
direct payment and to units of local government by direct
payment: Provided further, That within 90 days of the
completion of each Federal fiscal year, the Nevada Divi-
sion of Emergency Management and the Governor of the
State of Nevada and each of the affected units of local
government shall provide certification to the Department
of Energy that all funds expended from such payments
have been expended for activities authorized by the NWPA
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 appro-
priated may be: (1) used directly or indirectly to influence
legislative action, except for normal and recognized execu-
tive-legislative communications, on any matter pending be-
fore Congress or a State legislature or for lobbying activity
as provided in 18 U.S.C. 1913; (2) used for litigation ex-
penses; or (3) used to support multi-State efforts or other
coalition building activities inconsistent with the restric-
tions contained in this Act: *Provided further,* That all pro-
ceeds and recoveries realized by the Secretary in carrying
out activities authorized by the NWPA, including but not
limited to, any proceeds from the sale of assets, shall be
available without further appropriation and shall remain
available until expended: *Provided further,* That no funds
provided in this Act or any previous Act may be used to
pursue repayment or collection of funds provided in any
fiscal year to affected units of local government for over-
sight activities that had been previously approved by the
Department of Energy, or to withhold payment of any
such funds: *Provided further,* That of the amount appro-
priated in this paragraph, $1,950,000 shall be used for
projects specified in the table that appears under the head-
ing “Congressionally Directed Nuclear Waste Disposal Projects” in the report of the Committee on Appropriations of the United States Senate to accompany this Act.

TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM

Subject to section 502 of the Congressional Budget Act of 1974, commitments to guarantee loans under title XVII of the Energy Policy Act of 2005 shall not exceed a total principal amount, any part of which is to be guaranteed, of $20,000,000,000 for eligible projects (other than nuclear power facilities), and commitments to guarantee loans under title XVII shall not exceed a total principal amount, any part of which is to be guaranteed, of $18,500,000,000 for eligible nuclear power facilities: Provided, That these amounts are in addition to the authority provided under section 20320 of division B of Public Law 109–289, as amended by Public Law 110–5: Provided further, That such sums as are derived from amounts received from borrowers pursuant to section 1702(b)(2) of the Energy Policy Act of 2005 under this heading in this and prior Acts, shall be collected in accordance with section 502(7) of the Congressional Budget Act of 1974: Provided further, That the source of such payment received from borrowers is not a loan or other debt obligation that is guaranteed by the Federal Government: Provided fur-
ther, That pursuant to section 1702(b)(2) of the Energy Policy Act of 2005, no appropriations are available to pay the subsidy cost of such guarantees: Provided further, That for necessary administrative expenses to carry out this Loan Guarantee program, $19,880,000 is appropriated, to remain available until expended: Provided further, That $19,880,000 of the fees collected pursuant to section 1702(h) of the Energy Policy Act of 2005 shall be credited as offsetting collections to this account to cover administrative expenses and shall remain available until expended, so as to result in a final fiscal year 2009 appropriation from the general fund estimated at not more than $0.

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 $30,000, $272,144,000, 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
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 $117,317,000 in fiscal year 2009 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 2009, and any related appropriated receipt account balances remaining from prior years’ miscellaneous revenues, so as to result in a final fiscal year 2009 appropriation from the general fund estimated at not more than $154,827,000.

Office of the Inspector General

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, the purchase of not to exceed two passenger motor vehicles, and one ambulance; $6,524,579,000, to remain available until expended: Provided, That $38,583,000 is authorized to be appropriated for Project 06–D–140–05 (PED) Uranium Processing Facility, Y–12 Plant, Oak Ridge, Tennessee: Provided further, That $125,000,000 is authorized to be appropriated for 04–D–125 Chemistry and Metallurgy facility replacement project, Los Alamos, New Mexico: Provided further, That $35,000,000 is authorized to be appropriated for the 09–D–007 LANSCE Refurbishment, PED, Los Alamos National Laboratory, Los Alamos, New Mexico: Provided further, That of the amount appropriated in this paragraph, $3,500,000 shall be used for projects specified in the table that appears
under the heading “Congressionally Directed Weapons Activities Projects” in the report of the Committee on Appropriations of the United States Senate to accompany this Act.

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, and the purchase of not to exceed one passenger motor vehicle for replacement only; $1,909,056,000, to remain available until expended: Provided, That of the funds provided herein, $487,008,000 is for Project 99–D–143 Mixed Oxide (MOX) Fuel Fabrication Facility, Savannah River Site, South Carolina: Provided further, That the Department of Energy adhere strictly to Department of Energy Order 413.3A for Project 99–D–143.

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, $828,054,000, 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, $404,081,000, to remain available until expended.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP (INCLUDING TRANSFER OF FUNDS)

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, and the purchase of not to exceed four ambulances and three passenger motor vehicles for replacement only,
$5,771,506,000, to remain available until expended, of which $463,000,000 shall be transferred to the “Uranium Enrichment Decontamination and Decommissioning Fund”: Provided, That of the amount appropriated in this paragraph, $9,000,000 shall be used for projects specified in the table that appears under the heading “Congressionally Directed Defense Environmental Cleanup Projects” in the report of the Committee on Appropriations of the United States Senate to accompany this Act.

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 10 passenger motor vehicles for replacement only, $827,503,000, to remain available until expended: Provided, That of the amount appropriated in this paragraph, $1,050,000 shall be used for projects specified in the table that appears under the heading “Congressionally Directed Other Defense Activities Projects” in the report of the
Committee on Appropriations of the United States Senate to accompany this Act.

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, $193,000,000, 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 2009, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, including transmission wheeling and ancillary services pursuant to section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $7,420,000, to remain available until expended: Provided, That, notwithstanding 31 U.S.C. 3302, up to $49,520,000 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, $28,414,000, to remain available until expended: Provided, That, notwithstanding 31 U.S.C. 3302, up to $35,000,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act of 1944 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.
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; $218,346,000, to remain available until expended, of which $208,642,000 shall be derived from the Department of the Interior Reclamation Fund: Provided, That of the amount herein appropriated, $7,342,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: Provided further, That notwithstanding the provision of 31 U.S.C. 3302, up to $403,118,000 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, $2,959,000, 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, $273,400,000, to remain available until expended: Provided, That notwithstanding any other provision of law, not to exceed $273,400,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2009 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 2009 so as to result in a
final fiscal year 2009 appropriation from the general fund
estimated at not more than $0.

GENERAL PROVISIONS—DEPARTMENT OF
ENERGY

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

(1) in section 3102, by striking “For purposes” and inserting “Except as provided in section 3112A, for purposes”; and

(2) by inserting after section 3112 the following:

“SEC. 3112A. INCENTIVES FOR ADDITIONAL
DOWNBLENDING OF HIGHLY ENRICHED URANIUM BY THE RUSSIAN FEDERATION.

“(a) DEFINITIONS.—In this section:

“(1) COMPLETION OF THE RUSSIAN HEU AGREEMENT.—The term ‘completion of the Russian HEU Agreement’ means the importation into the United States from the Russian Federation pursuant to the Russian HEU Agreement of uranium derived from the downblending of not less than 500 metric tons of highly enriched uranium of weapons origin.
“(2) **DOWNBLENDING.**—The term ‘downblending’ means processing highly enriched uranium into a uranium product in any form in which the uranium contains less than 20 percent uranium-235.

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

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

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

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

“(5) **LOW-ENRICHED URANIUM.**—The term ‘low-enriched uranium’ means a uranium product in any form, including uranium hexafluoride (UF₆) and uranium oxide (UO₂), in which the uranium contains less than 20 percent uranium-235, including natural uranium, without regard to whether the uranium is incorporated into fuel rods or complete fuel assemblies.
“(6) Russian HEU Agreement.—The term ‘Russian HEU Agreement’ has the meaning given that term in section 3102(11).

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

“(b) Statement of Policy.—It is the policy of the United States to support the continued downblending of highly enriched uranium of weapons origin in the Russian Federation in order to protect the essential security interests of the United States with respect to the nonproliferation of nuclear weapons.

“(c) Promotion of Downblending of Russian Highly Enriched Uranium.—

“(1) Completion of the Russian HEU Agreement.—Prior to the completion of the Russian HEU Agreement, the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation and is not imported pursuant to the Russian HEU Agreement, may not exceed the following amounts:

“(A) In the 4-year period beginning with calendar year 2008, 16,559 kilograms.
“(B) In calendar year 2012, 24,839 kilograms.

“(C) In calendar year 2013 and each calendar year thereafter through the calendar year of the completion of the Russian HEU Agreement, 41,398 kilograms.

“(2) INCENTIVES TO CONTINUE DOWNBLENDING RUSSIAN HIGHLY ENRICHED URANIUM AFTER THE COMPLETION OF THE RUSSIAN HEU AGREEMENT.—

“(A) IN GENERAL.—After the completion of the Russian HEU Agreement, the importation into the United States of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, that is produced in the Russian Federation, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin, may not exceed—

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

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

“(iii) in calendar year 2016, 480,146 kilograms;
“(iv) in calendar year 2017, 490,710 kilograms;
“(v) in calendar year 2018, 492,731 kilograms;
“(vi) in calendar year 2019, 509,058 kilograms; and
“(vii) in calendar year 2020, 514,754 kilograms.

“(B) ADDITIONAL IMPORTS IN EXCHANGE FOR A COMMITMENT TO DOWNBLEND AN ADDITIONAL 300 METRIC TONS OF HIGHLY ENRICHED URANIUM.—

“(i) IN GENERAL.—In addition to the amount authorized to be imported under subparagraph (A) and except as provided in clause (ii), if the Russian Federation enters into a bilateral agreement with the United States under which the Russian Federation agrees to downblend an additional 300 metric tons of highly enriched uranium after the completion of the Russian HEU Agreement, 4 kilograms of low-enriched uranium, whether or not such low-enriched uranium is derived from highly enriched uranium of weapons origin and
including low-enriched uranium obtained
under contracts for separative work units,
may be imported in a calendar year for
every 1 kilogram of Russian highly en-
riched uranium of weapons origin that was
downblended in the preceding calendar
year, subject to the verification of the Sec-
retary of Energy under paragraph (9).

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

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

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

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

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

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

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

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

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

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

“(A) in consultation with the Secretary of
Energy, determines that the available supply of
low-enriched uranium and the available stock-
piles of uranium of the Department of Energy are insufficient to meet demand in the United States in the following calendar year; and

“(B) notifies Congress of the adjustment not less than 45 days before making the adjustment.

“(6) EQUIVALENT QUANTITIES OF LOW-ENRICHED URANIUM IMPORTS.—

“(A) IN GENERAL.—The import limitations described in paragraphs (1) and (2) are expressed in terms of uranium containing 4.4 percent uranium-235 and a tails assay of 0.3 percent.

“(B) ADJUSTMENT FOR OTHER URANIUM.—Imports of low-enriched uranium under paragraphs (1) and (2), including low-enriched uranium obtained under contracts for separative work units, shall count against the import limitations described in such paragraphs in amounts calculated as the quantity of low-enriched uranium containing 4.4 percent uranium-235 necessary to equal the total amount of uranium-235 contained in such imports.

“(7) DOWNBLENDING OF OTHER HIGHLY ENRICHED URANIUM.—
“(A) IN GENERAL.—The downblending of highly enriched uranium not of weapons origin may be counted for purposes of paragraph (2)(B), subject to verification under paragraph (9), if the Secretary of Energy determines that the highly enriched uranium to be downblended poses a risk to the national security of the United States.

“(B) EQUIVALENT QUANTITIES OF HIGHLY ENRICHED URANIUM.—For purposes of determining the additional low-enriched uranium imports allowed under paragraph (2)(B), highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A) shall count as downblended highly enriched uranium of weapons origin in amounts calculated as the quantity of highly enriched uranium containing 90 percent uranium-235 necessary to equal the total amount of uranium-235 contained in the highly enriched uranium not of weapons origin downblended pursuant to subparagraph (A).

“(8) TERMINATION OF IMPORT RESTRICTIONS.—The provisions of this subsection shall terminate on December 31, 2020.
“(9) Technical verifications by Secretary of Energy.—

“(A) In general.—The Secretary of Energy shall verify the origin, quantity, and uranium-235 content of the highly enriched uranium downblended for purposes of paragraphs (2)(B) and (7).

“(B) Methods of verification.—In conducting the verification required under subparagraph (A), the Secretary of Energy shall employ the transparency measures and access provisions agreed to under the Russian HEU Agreement for monitoring the downblending of Russian highly enriched uranium of weapons origin and such other methods as the Secretary determines appropriate.

“(10) Enforcement of import limitations.—The Secretary of Commerce shall be responsible for enforcing the import limitations imposed under this subsection and shall enforce such import limitations in a manner that imposes a minimal burden on the commercial nuclear industry.

“(11) Effect on other agreements.—

“(A) Russian HEU agreement.—Nothing in this section shall be construed to modify
the terms of the Russian HEU Agreement, including the provisions of the Agreement relating to the amount of low-enriched uranium that may be imported into the United States.

“(B) Other Agreements.—If a provision of any agreement between the United States and the Russian Federation, other than the Russian HEU Agreement, relating to the importation of low-enriched uranium, including low-enriched uranium obtained under contracts for separative work units, into the United States conflicts with a provision of this section, the provision of this section shall supersede the provision of the agreement to the extent of the conflict.”.

Sec. 302. Unfunded Requests for Proposals. 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.

Sec. 303. Workforce Restructuring. 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. 304. SECTION 3161 ASSISTANCE. None of the
funds appropriated by this Act may be used to augment
the funds made available for obligation by this Act for sev­
erance payments and other benefits and community assist­
ice 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 con­
gressional committees.

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

SEC. 306. BONNEVILLE POWER AUTHORITY SERV­
ICE TERRITORY. None of the funds in this or any other
Act for the Administrator of the Bonneville Power Admin­
istration 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. USER FACILITIES. 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 Cen-
ter/User Facility; and (3) any other Departmental facility
designated by the Department as a user facility.

SEC. 308. INTELLIGENCE ACTIVITIES. Funds appro-
propriated 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 2009 until the
enactment of the Intelligence Authorization Act for fiscal
year 2009.

SEC. 309. LABORATORY DIRECTED RESEARCH AND
DEVELOPMENT. Of the funds made available by the De-
partment of Energy for activities at government-owned,
contractor-operator operated laboratories funded in this
Act or subsequent Energy and Water Development Appro-
priations Acts, the Secretary may authorize a specific
amount, not to exceed 10 percent of such funds, to be used
by such laboratories for laboratory-directed research and
development: Provided, That the Secretary may also au-
thorize a specific amount not to exceed 6 percent of such
funds, to be used by the plant manager of a covered nu-
clear weapons production plant or the manager of the Ne-
vada Site Office for plant or site-directed research and de-
velopment: Provided further, That notwithstanding De-
partment of Energy order 413.2A, dated January 8, 2001,
beginning in fiscal year 2006 and thereafter, all DOE labor-
oratories may be eligible for laboratory directed research
and development funding.

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

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

SEC. 312. RENO HYDROGEN FUEL PROJECT. (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. INTEGRATED UNIVERSITY PROGRAM. (a) The Secretary of Energy, along with the Administrator of the National Nuclear Security Administration and the Chairman of the Nuclear Regulatory Commission, shall establish an Integrated University Program.

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

(1) $15,000,000 for the Department of Energy;

(2) $15,000,000 for the Nuclear Regulatory Commission; and
(3) $15,000,000 for the National Nuclear Security Administration.

(c) Of the amounts authorized to carry out this section, $10,000,000 shall be used by each organization to support university research and development in areas relevant to their respective organization’s mission, and $5,000,000 shall be used by each organization to support a jointly implemented Nuclear Science and Engineering Grant Program that will support multiyear research projects that do not align with programmatic missions but are critical to maintaining the discipline of nuclear science and engineering.

SEC. 314. NAMING LABORATORY FACILITIES. Facilities at Sandia National Laboratories and Los Alamos National Laboratory, New Mexico, shall be named in honor of Senator Pete V. Domenici in recognition of his exceptional service in the national interest and his steadfast support of scientific excellence at our national laboratories.

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, not withstanding 40 U.S.C. 14704,
standing 31 U.S.C. 3302: Provided further, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 2009 so as to result in a final fiscal year 2009 appropriation estimated at not more than $934,000.

**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, $3,811,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

**OFFICE OF THE FEDERAL COORDINATOR FOR ALASKA**

**NATURAL GAS TRANSPORTATION PROJECTS**

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

**TITLE V**

**GENERAL PROVISIONS**

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

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

This Act may be cited as the “Energy and Water Development and Related Agencies Appropriations Act, 2009”.

S 3258 PCS
A BILL

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

JULY 14, 2008
Read twice and placed on the calendar