Calendar No. 478

111TH CONGRESS
2D Session

S. 3635

[Report No. 111–228]

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

IN THE SENATE OF THE UNITED STATES

JULY 22, 2010

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

A BILL

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

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

INVESTIGATIONS

For expenses necessary where authorized by law for the collection and study of basic information pertaining to river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related needs; for surveys and detailed studies, and plans and specifications of proposed river and harbor, flood and storm damage reduction, shore protection, and aquatic ecosystem restoration projects and related efforts prior to construction; for restudy of authorized projects; and for miscellaneous investigations and, when authorized by law, surveys and detailed studies, and plans and specifications of projects prior to construction, $166,000,000, to remain available until expended.
CONSTRUCTION
(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the construction of river
and harbor, flood and storm damage reduction, shore pro-
tection, 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 specifica-
tions, shall not constitute a commitment of the Govern-
ment to construction); $1,780,000,000, to remain avail-
able until expended; of which such sums as are necessary
to cover the Federal share of construction costs for facili-
ties under the Dredged Material Disposal Facilities pro-
gram shall be derived from the Harbor Maintenance Trust
Fund as authorized by Public Law 104–303; and of which
such sums as are necessary to cover one-half of the costs
of construction, replacement, rehabilitation, and expansion
of inland waterways projects (including only Kentucky
Lock and Dam, Tennessee River, Kentucky; Lock and
Dams 2, 3, and 4 Monongahela River, Pennsylvania; Lock
and Dam 27, Mississippi River, Illinois; Markland Locks
and Dam, Kentucky and Indiana; Olmsted Lock and Dam,
Illinois and Kentucky; and Emsworth Locks and Dam,
Ohio River, Pennsylvania) shall be derived from the Inland Waterways Trust Fund: Provided, That the Chief of Engineers is directed to use $20,000,000 of the funds appropriated herein for 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 $20,000,000 of the funds appropriated herein for construction-related activities for flood risk management in the Fargo, North Dakota-Moorhead, Minnesota Metropolitan Area subject to a project being found technically sound, environmentally sustainable, and economically viable: Provided further, That the Chief of Engineers is directed to use $1,500,000 of funds available for the Greenbrier Basin, Marlinton, West Virginia, Local Protection Project to continue engineering and design efforts, execute a project partnership agreement for phases 1 and 2, and initiate construction of the project substantially in accordance with Alternative 1 as described in the Corps of Engineers Final Detailed Project Report and Environmental Impact Statement for Marlinton, West Virginia Local Protection Project dated September 2008 with the Federal and non-Federal cost shares determined in accordance with the ability-to-pay provisions prescribed in section 103(m) of the Water Resources Development Act.
Of 1986: Provided further, That the Chief of Engineers is
directed to use $2,750,000 of the funds appropriated here-
in to continue planning, engineering, design or construc-
tion of the Lower Mingo County, Upper Mingo County,
Wayne County, McDowell County, West Virginia, ele-
ments of the Levisa and Tug Forks of the Big Sandy
River and Upper Cumberland River Project.

MISSISSIPPI RIVER AND TRIBUTARIES

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

OPERATION AND MAINTENANCE

For expenses necessary for the operation, mainte-
nance, and care of existing river and harbor, flood and
storm damage reduction, aquatic ecosystem restoration,
and related projects authorized by law; providing security
for infrastructure owned or operated by the Corps, including administrative buildings and laboratories; maintaining harbor channels provided by a State, municipality, or other public agency that serve essential navigation needs of general commerce, where authorized by law; surveying and charting northern and northwestern lakes and connecting waters; clearing and straightening channels; and removing obstructions to navigation, $2,495,000,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of eligible operation and maintenance costs for coastal harbors and channels, and for inland harbors shall be derived from the Harbor Maintenance Trust 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 (16 U.S.C. 460l–6a(i)), shall 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 from fees collected 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 such fees have been collected: Provided, That 1 percent of the total amount of
funds provided for each of the programs, projects or activities funded under this heading shall not be allocated to a field operating activity prior to the beginning of the fourth quarter of the fiscal year and shall be available for use by the Chief of Engineers to fund such emergency activities as the Chief of Engineers determines to be necessary and appropriate; and that the Chief of Engineers shall allocate during the fourth quarter any remaining funds which have not been used for emergency activities proportionally in accordance with the amounts provided for the programs, projects or activities.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $193,000,000, 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, $130,000,000, to remain available until expended.

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

EXPENSES

For expenses necessary for the supervision and gen-
eral administration of the civil works program in the head-
quarters of the United States Army Corps of Engineers
and the offices of the Division Engineers; and for the man-
agement and operation of the Humphreys Engineer Cen-
ter Support Activity, the Institute for Water Resources,
the United States Army Engineer Research and Develop-
ment Center, and the United States Army Corps of Engi-
eers Finance Center, $185,000,000, to remain available
until expended, of which not to exceed $5,000 may be used
for official reception and representation purposes and only
during the current fiscal year: Provided, That no part of
any other appropriation provided in title I of this Act shall
be available to fund the civil works activities of the Office
of the Chief of Engineers or the civil works executive di-
rection and management activities of the division offices:
Provided further, That any Flood Control and Coastal
Emergencies appropriation may be used to fund the super-
vision and general administration of emergency oper-
ations, repairs, and other activities in response to any
flood, hurricane, or other natural disaster.
For the Office of the Assistant Secretary of the Army for Civil Works as authorized by 10 U.S.C. 3016(b)(3), $6,000,000, to remain available until expended.

ADMINISTRATIVE PROVISION

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

GENERAL PROVISIONS, CORPS OF ENGINEERS—CIVIL

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

(1) 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 have been denied or restricted by this Act, unless prior approval is received from the House and Senate Committees on Appropriations;
(4) proposes to use funds directed for a specific activity for a different purpose, unless prior approval is received from the House and Senate Committees on Appropriations;

(5) augments or reduces existing programs, projects or activities in excess of the amounts contained in subsections 6 through 10, unless prior approval is received from the House and Senate Committees on Appropriations;

(6) Investigations.—For a base level over $100,000, reprogramming of 25 percent of the base amount up to a limit of $150,000 per project, study or activity is allowed: Provided, That for a base level less than $100,000, the reprogramming limit is $25,000: Provided further, That up to $25,000 may be reprogrammed to continue ongoing work on any program, project, or activity that did not receive an appropriation for existing obligations and concomitant administrative expenses;

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

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

(9) MISSISSIPPI RIVER AND TRIBUTARIES.—
The same reprogramming guidelines as provided in
subsections 6 through 8 above apply to the Inves-
tigations, Construction, and Operation and Maintenance portions of the Mississippi River and Tributaries Account; and

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

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

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

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

(1) A table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level;
(2) A delineation in the table for each appropriation both by object class and program, project and activity as detailed in the budget appendix for the respective appropriations; and

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

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

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

Sec. 104. Within 120 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. During the 1-year period beginning on the
date of enactment of this Act, the Secretary of the Army
shall implement measures recommended in the efficacy
study, or provided in interim reports, authorized under
section 3061 of the Water Resources Development Act of
2007 (121 Stat. 1121), with such modifications or emer-
gency measures as the Secretary of the Army determines
to be appropriate, to prevent aquatic nuisance species
from bypassing the Chicago Sanitary and Ship Canal Dis-
persal Barrier Project referred to in that section and to
prevent aquatic nuisance species from dispersing into the
Great Lakes and such emergency measures as the Sec-
retary of the Army determines to be appropriate to pre-
vent such species from dispersing into the Great Lakes
by way of any other hydrologic connections between the
Great Lakes and the Mississippi River.

Sec. 106. That portion of the project for navigation,
Block Island Harbor of Refuge, Rhode Island adopted by
the Rivers and Harbors Act of July 11, 1870, consisting
of the cut-stone breakwater lining the west side of the
Inner Basin: Beginning at a point with coordinates
N32579.55, E312625.53, thence running northerly about
76.59 feet to a point with coordinates N32655.92,
E312631.32, thence running northerly about 206.81 feet
to a point with coordinates N32858.33, E312673.74,
thence running easterly about 109.00 feet to a point with coordinates N32832.15, E312779.54, shall no longer be authorized after the date of enactment of this Act.

RURAL UTAH


(1) in subparagraph (A), by striking ‘‘; and’’ and inserting a semicolon;

(2) in subparagraph (B), by striking the period at the end and inserting ‘‘; and’’; and

(3) by adding at the end the following:

‘‘(C) the portions of Utah County and Weber Counties that are located outside of a political subdivision, the population of which is greater than 10,000 residents.’’.

SEC. 108. Section 595 of the Water Resources Development Act of 1999 (113 Stat. 383; 117 Stat. 1836; 118 Stat. 440), as amended by section 5067 of the Water Resources Development Act of 2007 (121 Stat. 1219), is amended in subsection (h) by striking ‘‘150,000,000 for rural Nevada’’ and inserting ‘‘$200,000,000 for rural Nevada’’.

SEC. 109. (a) ACQUISITION.—The Secretary is authorized to acquire any real property and associated real
property interests in the vicinity of Hanover, New Hamp-
shire as may be needed for the Engineer Research and
Development Center laboratory facilities at the Cold Re-
gions Research and Engineering Laboratory.

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

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

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

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

(3) The purchase of any property by the seller
exercising either right of first refusal authorized in
this section shall be for consideration acceptable to
the Secretary and shall be for not less than fair
market value at the time the property becomes avail-
able for purchase. The right of first refusal author-
ized in this section shall not inure to the benefit of
the Seller’s successors or assigns.

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

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

SEC. 111. Section 3113 of the Water Resources De-
velopment Act, 2007 (121 Stat. 1041) is amended by
striking all after the words “total cost of” and inserting
in lieu thereof the following: “$38,800,000, with an esti-
mated Federal cost of $25,220,000 and an estimated non-
Federal cost of $13,580,000.”

SEC. 112. The boundaries of the project referred to
as “Des Moines Recreational River and Greenbelt, Iowa”
313) are hereby expanded to include the entirety of sec-
tions 19 and 29, situated in T89N, R28W.

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

DEVILS LAKE, NORTH DAKOTA, LONG-TERM
MAINTENANCE AND REPAIR

SEC. 114. (a) The Secretary shall assume responsi-
ability for the long-term maintenance and repair of the
major flood damage reduction features constructed by the
Corps of Engineers at Devils Lake, North Dakota. The City of Devils Lake, North Dakota, shall be responsible for all costs of operation and maintenance other than those defined as Long-Term Maintenance and Repair in subsection (b) below.

(b) Long-Term Maintenance and Repair consists of replacing, reconstructing, or rehabilitating major flood damage reduction features such as embankments, pump stations, pumps and gate wells that: (1) have become dilapidated or in need of repair as a result of the passage of time or ordinary wear and tear; or (2) have been damaged or destroyed by wind, wave, or water action of other than an ordinary nature when, in the discretion of the Secretary, such replacement, reconstruction, or rehabilitation is warranted for the continued functioning of the flood damage reduction project at Devils Lake.

Sec. 115. Section 111 of title I of division C of the Consolidated Appropriations Act, 2005 (118 Stat. 2944) as amended by section 3001 of Public Law 110–114 is further amended by adding the following before ‘‘(e) Authorization of Appropriations.’’:

‘‘(3) may grant to the City of Tuscaloosa a long term lease or license agreement for any portion of the Parcel not required for construction of the new administrative facility under subsection
(a)(2)(c) until such time as the City of Tuscaloosa is prepared to take fee simple title per the provisions of subsection (b)(2).”

SEC. 116. Section 333 of the Water Resources Development Act of 1996 (110 Stat. 3718) is further amended to read as follows:

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

“(b) Lands individually acquired by the Secretary under this section for flood protection and flood management in the Passaic River Basin are to held by the Secretary and the non-Federal sponsor as tenants in common with, thereafter, any interest held by the Secretary in such lands to be transferred by Quitclaim Deed to the Non-Federal Sponsor for consideration as is necessary to render the project cost-sharing percentages to be in compliance with section 903(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2213) and such other law as may be applicable.”; and

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

“(e) FUNDS FOR LAND ACQUISITION.—Funds for acquiring such lands as are necessary in carrying out the requirements of this section and requirements as further recommended by the Secretary shall include funds as pro-
vided in subsection (c) and (d) of this section herein and also funds as previously appropriated with any and all such funds to be held by the Secretary for use in acquiring the requisite lands in proportion to the project cost-sharing percentages.”.

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

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

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

(d) Except as provided in subsections (b) and (c) of this section, as of October 1, 2012, the Federal share of the cost of any environmental infrastructure assistance
project or program shall be 55 percent of the total cost of the project or program.

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

“(k) ST. CHARLES COUNTY, MISSOURI.—

“(1) DEFINITIONS.—In this subsection, the following definitions apply:

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

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

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

“(A) DEEDS.—

“(i) NON-FEDERAL LAND.—The conveyance of the non-Federal land to the Secretary shall be by a warranty deed acceptable to the Secretary.

“(ii) FEDERAL LAND.—The conveyance of the Federal land to Ameren U.E., shall be—

“(I) by quitclaim deed; and

“(II) subject to any reservations, terms, and conditions that the Secretary determines to be necessary to allow the United States to operate and maintain the Mississippi River 9-Foot Navigation Project.

“(iii) LEGAL DESCRIPTIONS.—The Secretary shall provide a legal description of the Federal land, and Ameren U.E., shall provide a legal description of the non-Federal land, for inclusion in the deeds referred to in clauses (i) and (ii).

“(B) REMOVAL OF IMPROVEMENTS.—

“(i) IN GENERAL.—The Secretary may require the removal of, or Ameren
U.E., may voluntarily remove, any improvements to the non-Federal land before the completion of the exchange or as a condition of the exchange.

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

“(I) Ameren U.E., shall have no claim against the United States relating to the removal; and

“(II) the United States shall not incur or be liable for any cost associated with the removal or relocation of the improvements.

“(C) ADMINISTRATIVE COSTS.—The Secretary shall require Ameren U.E. to pay reasonable administrative costs associated with the exchange.

“(D) CASH EQUALIZATION PAYMENT.—If the appraised fair market value, as determined by the Secretary, of the Federal land exceeds the appraised fair market value, as determined by the Secretary, of the non-Federal land, Ameren U.E. shall make a cash equalization payment to the United States.
“(E) Deadline.—The land exchange under subparagraph (B) shall be completed not later than 2 years after the date of enactment of this Act.”.

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, $43,004,000, to remain available until expended, of which $2,500,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission, and of which $1,694,000 for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior.

For fiscal year 2011, the Commission may use an amount not to exceed $1,500,000 for administrative expenses.

BUREAU OF RECLAMATION

The following appropriations shall be expended to execute authorized functions of the Bureau of Reclamation:
WATER AND RELATED RESOURCES

(INCLUDING TRANSFERS 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, federally recognized Indian tribes, and others, $938,600,000, to remain available until expended, of which $11,746,000 shall be available for transfer to the Upper Colorado River Basin Fund and $8,627,000 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: 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. 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
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, That the funds provided herein for the St. Mary Storage Unit facilities, Milk River Project, Montana, shall be used on a nonreimbursable basis: 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 nonreimbursable basis: Provided further, That of the amounts provided herein, funds may be used for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, $49,915,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(e)(3), and 3405(f) 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 TRANSFERS OF FUNDS)

For carrying out activities authorized by the Water
Supply, Reliability, and Environmental Improvement Act,
consistent with plans to be approved by the Secretary of
the Interior, $40,000,000, to remain available until ex-
pended, 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 appro-
piated herein may be used for the Federal share of the
costs of CALFED Program management: Provided fur-
ther, That the use of any funds provided to the California
Bay-Delta Authority for programwide 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 concur-
rent 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, $61,200,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: Provided, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

GENERAL PROVISIONS—DEPARTMENT OF THE INTERIOR

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

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

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

(3) increases funds for any program, project, or activity for which funds have been denied or restricted by this Act, unless prior approval is received...
from the Committees on Appropriations of the 
House of Representatives and the Senate;

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

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

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

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

(6) transfers more than $500,000 from either 
the Facilities Operation, Maintenance, and Rehabili-
tation category or the Resources Management and 
Development category to any program, project, or 
activity in the other category, unless prior approval 
is received from the Committees on Appropriations 
of the House of Representatives and the Senate; or
(7) transfers, where necessary to discharge legal obligations of the Bureau of Reclamation, more than $5,000,000 to provide adequate funds for settled contractor claims, increased contractor earnings due to accelerated rates of operations, and real estate deficiency judgments, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate.

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

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

d) The Bureau of Reclamation shall submit reports on a quarterly basis to the Committees on Appropriations of the House of Representatives and the Senate detailing all the funds reprogrammed between programs, projects, activities, or categories of funding. The first quarterly report shall be submitted not later than 60 days after the date of enactment of this Act.

Sec. 202. (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. 203. 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. 204. Funds under this title for Drought Emer-

gency 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.

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

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

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

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

(B) $1,000,000 shall be for the Walker
River Paiute Tribe for legal and professional
services in support of settling tribal water
claims in the Walker River Basin; and

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

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

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

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

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

(4) $6,250,000 to provide grants of equal
amounts to the State of Nevada, the State of Cali-
ifornia, the Truckee Meadows Water Authority, the
Pyramid Lake Paiute Tribe, and the Federal Water
Master of the Truckee River to implement the
Truckee-Carson-Pyramid Lake Water Rights Settlement Act (title II of Public Law 101–618; 104 Stat. 3294);

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

(6) $17,200,000 to the Pyramid Lake Paiute Tribe for the benefit of the Truckee River and Pyramid Lake, of which—

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

(i) implementing the 1996 Truckee River Water Quality Settlement Agreement; and

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

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

(i) payment to the City of Fernley, with the agreement of the City, to temporarily transfer water rights owned by the City to the Truckee River; and
(ii) acquisition of ground-water rights
to be traded with the City of Fernley, with
the agreement of the City, for Truckee
River water rights; and

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

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

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

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

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

(11) $1,500,000 to the Specialty Crop Institute
of Western Nevada College to support alternative
crops and alternative agricultural cooperatives programs that promote water conservation;

(12) $1,000,000 to the Desert Research Institute to monitor reservoir evaporation and invasive species in the southwestern United States, including work in the Walker Basin; and

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

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

(1) in subsection (a)(1)—

(A) by striking “$66,200,000” and inserting “$81,200,000”; and

(B) by inserting “, and including associated activities that enhance recovery of the federally threatened Lahontan cutthroat trout” after “Rivers”; and

(2) in subsection (b)(1)(B)—
(A) in clause (i)(I), after “3-year”, by inserting “or longer”; and

(B) by adding at the end the following:

“(vii) $15,000,000 to be used as described in subparagraph (A), as determined by the National Fish and Wildlife Foundation.”.

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

(1) in paragraph (1)—

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

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

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

(2) in paragraph (3), by striking “restoration efforts at the Summit Lake in Northern Washoe County” and inserting “restoration and environmental protection efforts at the Summit Lake in Humboldt County”.

(d) Notwithstanding this section or any amendment made by this section, the Commissioner of Reclamation may retain sufficient amounts from funds allocated to the
Commissioner to administer all financial assistance agreements under the Desert Terminal Lakes program under section 2507 of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171).

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

1. the date that is 2 years after the date on which the contract would have expired if this Act had not been enacted; or
2. the date on which a new long-term contract is executed by the parties to the contract.

Sec. 208. The Secretary of the Interior is hereby directed, through the Commissioner of Reclamation, to amend or re-issue Seasonal Recreation Use Permits for the Northside Trailer Areas 1 and 2 and Southside Trailer Area around Heart Butte Reservoir (Lake Tschida) in North Dakota to extend the valid time period for those permits from the current 12 years to 20 years, to be measured from the date of original issuance, April 3, 2010. The amended or re-issued permits shall contain language ensuring the affected permits are fully transferrable for the full 20-year period.
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, $2,287,800,000 to remain available until expended: Provided, That $170,000,000 shall be available until September 20, 2012 for program direction: Provided further, That, of the amount appropriated in this paragraph, $147,600,000 shall be used for the 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 elec-
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, $190,180,000 to remain available until expended: Provided, That $29,049,000 shall be available until September 30, 2012 for program direction: Provided further, That, of the amount appropriated in this paragraph, $4,250,000 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: Provided further, That notwithstanding section 3304 of title 5, United States Code, and without regard to the provisions of sections 3309 through 3318 of such title 5, the Secretary of Energy, upon a determination that there is a severe shortage of candidates or a critical hiring need for particular positions, may from within the funds provided, recruit and directly appoint highly qualified individuals into the competitive service: Provided further, That such authority shall not apply to positions in the Excepted Service or the Senior Executive Service: Provided further, That any action authorized herein shall be consistent with the
merit principles of section 2301 of such title 5, and the Department shall comply with the public notice require-
ments of section 3327 of such title 5.

Nuclear Energy

For Department of Energy expenses including the purchase, construction, and acquisition of plant and cap-
ital equipment, and other expenses necessary for nuclear energy activities in carrying out the purposes of the De-
partment 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 more than 9 buses, all for replacement only, $783,170,000 to remain available until expended: Provided, That $91,452,000 shall be available until September 30, 2012 for program direction: Provided further, That, of the amount appropriated in this paragraph, $7,400,000 shall be used for projects specified in the table that appears under the heading “Congressionally Directed Nuclear En-
ergy Projects” in the report of the Committee on Appro-
priations of the United States Senate to accompany this Act.

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 (42 U.S.C. 7101 et seq.), 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, 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), $725,950,000 to remain available until expended: Provided, That $170,300,000 shall be available until September 30, 2012 for program direction: Provided further, That, of the amount appropriated in this paragraph, $19,950,000 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, $23,614,000, 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, (42 U.S.C. 6201 et seq.), $209,861,000, to remain available until expended.

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

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $119,000,000, 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, $244,163,000, 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, and title X, subtitle A, of the Energy Policy Act of 1992, $550,000,000 to be derived from the Uranium Enrichment Decontamination and Decommissioning 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 more than 57 passenger motor vehicles, 56 of which are for replacement only, including two law enforcement vehicles, two ambulances, and two buses, $5,012,000,000, to remain available until expended: Provided, That $208,000,000 shall remain available until September 30, 2012 for program direction: Provided further, That, of the amount appro-
priated in this paragraph, $40,800,000 shall be used for the 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.

ADVANCED RESEARCH PROJECTS AGENCY—ENERGY

For necessary expenses in carrying out the activities authorized by section 5012 of the America COMPETES Act (Public Law 110–69), $200,000,000, to remain available until expended: Provided, That $26,566,000 shall remain available until September 30, 2012 for program direction.

TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM

(INCLUDING RESCISSION OF FUNDS)

Subject to section 502 of the Congressional Budget Act of 1974, commitments to guarantee loans for nuclear power facilities under title XVII of the Energy Policy Act of 2005 shall not exceed a total principal amount of $17,000,000,000, to remain available until committed: Provided, That these amounts are in addition to authorities provided in any other Act: Provided further, That for amounts collected pursuant to section 1702(b)(2) of the Energy Policy Act of 2005, the source of such payment received from borrowers is not a loan or other debt obliga-
tion that is guaranteed by the Federal Government: *Provided further,* That pursuant to section 1702(b)(2) of the Energy Policy Act of 2005, no appropriations are available to pay the subsidy cost of such guarantees for nuclear power facilities: *Provided further,* That none of the loan guarantee authority made available in this Act shall be available for commitments to guarantee loans for any projects where funds, personnel, or property (tangible or intangible) of any Federal agency, instrumentality, personnel or affiliated entity are expected to be used (directly or indirectly) through acquisitions, contracts, demonstrations, exchanges, grants, incentives, leases, procurements, sales, other transaction authority, or other arrangements, to support the project or to obtain goods or services from the project: *Provided further,* That the previous provision shall not be interpreted as precluding the use of the loan guarantee authority in this Act for commitment to guarantee loans for projects as a result of such projects benefiting from (a) otherwise allowable Federal income tax benefits; (b) being located on Federal land pursuant to a lease or right-of-way agreement for which all consideration for all uses is (i) paid exclusively in cash, (ii) deposited in the Treasury as offsetting receipts, and (iii) equal to the fair market value as determined by the head of the relevant Federal agency; (c) Federal insurance programs,
including Price-Anderson; or (d) for electric generation projects, use of transmission facilities owned or operated by a Federal Power Marketing Administration or the Tennessee Valley Authority that have been authorized, approved, and financed independent of the project receiving the guarantee: *Provided further,* That none of the loan guarantee authority made available in this Act shall be available for any project unless the Director of the Office of Management and Budget has certified in advance in writing that the loan guarantee and the project comply with the provisions under this title: *Provided further,* That for the cost of loan guarantees for renewable energy under section 1703 of the Energy Policy of 2005, $380,000,000 is appropriated, to remain available until expended: *Provided further,* That of the authority provided for commitments to guarantee loans under this heading in title III, division C, Public Law 111–8, $14,000,000,000 is hereby rescinded: *Provided further,* That an additional amount for necessary administrative expenses to carry out this Loan Guarantee program, $58,000,000 is appropriated, to remain available until expended: *Provided further,* That $58,000,000 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 2011 appropriations from the general fund estimated at not more than $0: Provided further, That fees collected under section 1702(h) in excess of the amount appropriated for administrative expenses shall not be available until appropriated.

ADVANCED TECHNOLOGY VEHICLES MANUFACTURING LOAN PROGRAM

For administrative expenses in carrying out the Advanced Technology Vehicles Manufacturing Loan Program, $9,998,000, to remain available until expended.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses not to exceed $15,000; $288,872,000, to remain available until September 30, 2012, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): Provided, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: Provided further, That moneys received by the De-
partment for miscellaneous revenues estimated to total $119,740,000 in fiscal year 2011 may be retained and used for operating expenses within this account, and shall remain available until September 30, 2012, 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 2011, and any related appropriated receipt account balances remaining from prior years’ miscellaneous revenues, so as to result in a final fiscal year 2011 appropriation from the general fund estimated at not more than $169,132,000.

Office of the Inspector General


Atomic Energy Defense Activities

National Nuclear Security Administration

Weapons Activities

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 one ambulance and one aircraft; $7,018,835,000, to remain available until expended: Provided, That of the funds appropriated under this heading, $30,000,000 is directed for the 09–D–007 LANSCE Refurbishment, Los Alamos National 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 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, $2,612,167,000, 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, $1,040,486,000, to remain available until expended.

Office of the Administrator
(INCLUDING TRANSFER OF FUNDS)

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,$438,267,000, to remain available until September 30, 2012

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 two ambulances
and one fire truck for replacement only, $5,262,838,000, to remain available until expended, of which $33,700,000 shall be transferred to the “Uranium Enrichment Decontamination and Decommissioning Fund”: Provided, That $355,000,000 shall remain available until September 30, 2012 for program direction.

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, $866,317,000, to remain available until expended: Provided, That $120,244,000 shall be available until September 30, 2012 for program direction: Provided further, That of the amount appropriated in this paragraph, $2,000,000 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.

POWER MARKETING ADMINISTRATION

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93–454, are approved for the Leaburg Fish Sorter, the Okanogan Basin Locally Adapted Steelhead Supplementation Program, and the Crystal Springs Hatchery Facilities, and, in addition, for official reception and representation expenses in an amount not to exceed $7,000. During fiscal year 2011, 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, $8,034,000, to remain available until expended: Provided, That notwithstanding 31 U.S.C. 3302 and section 5 of the Flood Control Act of 1944, up to $8,034,000 collected by the Southeastern Power Administration from the sale of power and related services shall be credited to this account as discretionary offsetting col-
lections, to remain available until expended for the sole purpose of funding the annual expenses of the Southeastern Power Administration: Provided further, That the sum herein appropriated for annual expenses shall be reduced as collections are received during the fiscal year so as to result in a final fiscal year 2011 appropriation estimated at not more than $0: Provided further, That, notwithstanding 31 U.S.C. 3302, up to $74,157,000 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: Provided further, That for purposes of this appropriation, annual expenses means expenditures that are generally recovered in the same year that they are incurred (excluding purchase power and wheeling expenses).

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

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

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 con-
servation and renewable resources programs as author-
ized, including official reception and representation ex-
penses in an amount not to exceed $1,500; $285,864,000
to remain available until expended, of which $277,430,000
shall be derived from the Department of the Interior Re-
lamation Fund: Provided, That notwithstanding 31 U.S.C.
3302, section 5 of the Flood Control Act of 1944 (16
U.S.C. 825s), and section 1 of the Interior Department
Appropriation Act, 1939 (43 U.S.C. 392a), up to
$180,306,000 collected by the Western Area Power Ad-
ministration from the sale of power and related services
shall be credited to this account as discretionary offsetting
collections, to remain available until expended, for the sole
purpose of funding the annual expenses of the Western
Area Power Administration: Provided further, That the
sum herein appropriated for annual expenses shall be re-
duced as collections are received during the fiscal year so
as to result in a final fiscal year 2011 appropriation estimated at not more than $105,558,000, of which $97,124,000 is derived from the Reclamation Fund: Provided further, That of the amount herein appropriated, $7,627,000 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 31 U.S.C. 3302, up to $350,919,000 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: Provided further, That for purposes of this appropriation, annual expenses means expenditures that are generally recovered in the same year that they are incurred (excluding purchase power and wheeling expenses).

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $3,715,000, 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 2 of the Act of June 18, 1954 (68 Stat. 255): Provided, That notwithstanding the provisions of that Act and of 31 U.S.C. 3302, up to $3,495,000 collected by the Western Area Power Administration from the sale of power and related services from the Falcon and Amistad Dams shall be credited to this account as discretionary offsetting collections, to remain available until expended for the sole purpose of funding the annual expenses of the hydroelectric facilities of these Dams and associated Western Area Power Administration activities: Provided further, That the sum herein appropriated for annual expenses shall be reduced as collections are received during the fiscal year so as to result in a final fiscal year 2011 appropriation estimated at not more than $220,000: Provided further, That for purposes of this appropriation, annual expenses means expenditures that are generally recovered in the same year that they are incurred.

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,$315,600,000, to remain available until expended: Provided, That notwithstanding any other provision of law, not to exceed $315,600,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2011 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 2011 so as to result in a final fiscal year 2011 appropriation from the general fund estimated at not more than $0.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

Sec. 301. (a) None of the funds provided in this title shall be available for obligation 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 $5,000,000 or 10 percent, whichever is less; or

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

(b) The Secretary of Energy may waive this restriction on reprogramming under subsection (a) for reasons of national security, safety and health, environmental risk, or to accomplish project completion. In instances involving the National Nuclear Security Administration, the Secretary and the Administrator must jointly waive the restriction.

SEC. 302. None of the funds made available in this title may be used to prepare or initiate Requests For Proposals (RFPs) or similar arrangements (including but not limited to: Requests for Quotations (RFQs), Requests for Information (RFIs), Funding Opportunity Announcements (FOAs), etc.) for a program or activity if the program or activity has not been funded by Congress.

SEC. 303. None of the funds appropriated by this Act may be used—
(1) to augment the funds made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 4604 of the Atomic Energy Defense Act (50 U.S.C. 2704) unless the Department of Energy submits a reprogramming request to the appropriate congressional committees; or

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

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

Sec. 304. The unexpended balances of prior appropriations provided for activities in this Act may be available to the same appropriation 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. 305. 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) dur-
ing fiscal year 2011 until the enactment of the Intelligence

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

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

(c) In carrying out a transfer under this section, the
Secretary shall use each appropriation made available to
the Department in that fiscal year as a source for the
transfer, and shall reduce each appropriation by an equal
percentage, except that appropriations for which the Sec-
retary determines there exists a need for additional funds
for pension plan costs in that fiscal year, as well as appro-
priations made available for the Power Marketing Admin-
istrations, the title XVII loan guarantee program, and the
Federal Energy Regulatory Commission, shall not be sub-
ject to this requirement.

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

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

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

Sec. 307. Plant or construction projects for which
amounts are made available under this and subsequent ap-
propriation Acts with a current estimated cost of less than
$10,000,000 are considered 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. 308. None of the funds made available by this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, Other Transaction Agreement, or to issue a letter of intent totaling in excess of $1,000,000, or to announce publicly the intention to make such an award, including a contract covered by the Federal Acquisition Regulation, unless the Secretary of Energy notifies the Committees on Appropriations of the Senate and the House of Representatives at least 3 full business days in advance of making such an award or issuing such a letter: Provided, That if the Secretary of the Department of Energy determines that compliance with this section would pose a substantial risk to human life, health, or safety, an award may be made without notification and the Committees on Appropriations of the Senate and the House of Representatives shall be notified not later than 5 full business days after such an award is made or letter issued: Provided further, That purchases of power or transmission services made by the federal Power Marketing Administrations shall not be subject to the notification requirements of this section.
Sec. 309. (a) Notwithstanding any other provision of law, no funds appropriated in this Act, or any other act, may be used in fiscal year 2011 to transfer, sell, barter, distribute, or otherwise provide more than 3.3 million pounds of natural uranium equivalent of uranium in any form from the Department’s inventory.

(b) Any transfer, sale, barter, distribution, or other provision of uranium in any form under subsection (a) shall be carried out consistent with the Department’s Excess Uranium Inventory Management Plan, dated December 16, 2008.

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

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

1. the amount of uranium to be bartered;
2. the estimated market value of the uranium;
3. the expected date of provision of the uranium; and
4. the recipient of the uranium.

Sec. 310. None of the funds made available in this title may be used to make a final or conditional loan guar-
antee award unless the Secretary of Energy provides notification of the award, including the proposed subsidy cost, to the Committees on Appropriations of the Senate and the House of Representatives at least 3 full business days in advance of such award.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, 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, $76,000,000, 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, $26,086,000, 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, notwithstanding sections 382C(b)(2), 382F(d), 382M, and 382N of said Act, $13,000,000, 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, $11,965,000, to remain available until expended, notwithstanding the limitations contained in section 306(g) of the Denali Commission Act of 1998: Provided, That funds shall be available for construction projects in an amount not to exceed 80 percent of total project cost for distressed communities, as defined by section 307 of the Denali Commission Act of 1998 (division C, title III, Public Law 105–277), as amended by section 701 of appendix D, title VII, Public Law 106–113 (113 Stat. 1501A–280), and an amount not to exceed 50 percent for nondistressed communities.
For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974 and the Atomic Energy Act of 1954, including official representation expenses (not to exceed $25,000), $1,053,483,000, to remain available until expended: Provided, That of the amount appropriated herein, $10,000,000 shall be derived from the Nuclear Waste Fund: Provided further, That revenues from licensing fees, inspection services, and other services and collections estimated at $915,220,000 in fiscal year 2011 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 2011 so as to result in a final fiscal year 2011 appropriation estimated at not more than $138,263,000: Provided further, That of the amounts appropriated, $10,000,000 is provided to support university research and development in areas relevant to their respective organization’s mission, and $5,000,000 is to support a Nuclear Science and Engineering Grant Program that will support multiyear projects that do not align
with programmatic missions but are critical to maintaining the discipline of nuclear science and engineering.

OFFICE OF THE 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, $10,860,000, to remain available until expended: Provided, That revenues from licensing fees, inspection services, and other services and collections estimated at $9,774,000 in fiscal year 2011 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 2011 so as to result in a final fiscal year 2011 appropriation estimated at not more than $1,086,000.

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, $3,891,000, 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, $4,285,000 until expended: Provided, That any fees, charges, or commissions received pursuant to section 802 of Public Law 110–140 in fiscal year 2011 in excess of $4,683,000 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, 2011".
A BILL

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

July 22, 2010

Read twice and placed on the calendar

Calendar No. 478

111TH CONGRESS
2D SESSION

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