Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2019, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 24, 2018

Mr. ALEXANDER, 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, 2019, and for other purposes.

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

2 That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for en-

3 ergy and water development and related agencies for the fiscal year ending September 30, 2019, and for other pur-

4 poses, namely:
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, $2,322,000,000, to remain available until expended: Provided, That of such amount, $162,500,000 shall be available until September 30, 2020, for program direction.

CYBERSECURITY, ENERGY SECURITY, AND EMERGENCY RESPONSE

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for energy sector cybersecurity, energy security, emergency response, and electricity delivery 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, $260,000,000, to remain available until expended: Provided, That of such amount, $28,500,000 shall be available until September 30, 2020, for program direction.

NUCLEAR ENERGY

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 acquisition, construction, or expansion, $1,206,000,000, to remain available until expended: Provided, That of such amount, $80,000,000 shall be available until September 30, 2020, for program direction.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For Department of Energy expenses necessary 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 con-
cerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environ-
mental costs (30 U.S.C. 3, 1602, and 1603), $727,000,000, to remain available until expended: Provided, That of such amount $61,070,000 shall be available until September 30, 2020, for program direction.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For Department of Energy expenses necessary to carry out naval petroleum and oil shale reserve activities, $10,000,000, 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 Department of Energy expenses necessary for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.), $175,105,000, to remain available until expended: Provided, That, as authorized by section 404 of the Bipartisan Budget Act of 2015 (Public Law 114–74; 42 U.S.C. 6239 note), the Secretary of Energy shall draw down and sell not to exceed $350,000,000 of crude oil from the Strategic Petroleum Reserve in fiscal year 2019: Provided fur-
ther, That the proceeds from such drawdown and sale shall be deposited into the “Energy Security and Infrastructure Modernization Fund” during fiscal year 2019: Provided further, That such amounts shall be made available and remain available until expended for necessary expenses to carry out the Life Extension II project for the Strategic Petroleum Reserve.

SPR PETROLEUM ACCOUNT

For the acquisition, transportation, and injection of petroleum products, and for other necessary expenses pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), sections 403 and 404 of the Bipartisan Budget Act of 2015 (42 U.S.C. 6241, 6239 note), and section 5010 of the 21st Century Cures Act (Public Law 114–255), $8,400,000, to remain available until expended.

NORTHEAST HOME HEATING OIL RESERVE

For Department of Energy expenses necessary for Northeast Home Heating Oil Reserve storage, operation, and management activities pursuant to the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.), $10,000,000, to remain available until expended.

ENERGY INFORMATION ADMINISTRATION

For Department of Energy expenses necessary in carrying out the activities of the Energy Information Admin-
istration, $125,000,000, to remain available until ex-

3  pended.

3  NON-DEFENSE ENVIRONMENTAL CLEANUP

4  For Department of Energy expenses, including the
5  purchase, construction, and acquisition of plant and cap-
6  ital equipment and other expenses necessary for non-de-
7  fense environmental cleanup activities in carrying out the
8  purposes of the Department of Energy Organization Act
9  (42 U.S.C. 7101 et seq.), including the acquisition or con-
10  demnation of any real property or any facility or for plant
11  or facility acquisition, construction, or expansion,
12  $353,240,000, to remain available until expended.

13  URANIUM ENRICHMENT DECONTAMINATION AND
14  DECOMMISSIONING FUND

15  For Department of Energy expenses necessary in car-
16  rying out uranium enrichment facility decontamination
17  and decommissioning, remedial actions, and other activi-
18  ties of title II of the Atomic Energy Act of 1954, and
20  $840,818,000, to be derived from the Uranium Enrich-
21  ment Decontamination and Decommissioning Fund, to re-
22  main available until expended, of which $10,689,000 shall
23  be available in accordance with title X, subtitle A, of the
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 16 passenger motor vehicles including one ambulance and one bus, and one airplane for replacement only, $6,650,000,000, to remain available until expended: Provided, That of such amount, $184,000,000 shall be available until September 30, 2020, for program direction.

Advanced Research Projects Agency—Energy

For Department of Energy expenses necessary in carrying out the activities authorized by section 5012 of the America COMPETES Act (Public Law 110–69), $375,000,000, to remain available until expended: Provided, That of such amount, $33,250,000 shall be available until September 30, 2020, for program direction.

Title 17 Innovative Technology Loan Guarantee Program

Such sums as are derived from amounts received from borrowers pursuant to section 1702(b) of the Energy
Policy Act of 2005 under this heading in prior Acts, shall be collected in accordance with section 502(7) of the Congressional Budget Act of 1974: Provided, That for necessary administrative expenses of the Title 17 Innovative Technology Loan Guarantee Program, as authorized, $33,000,000 is appropriated, to remain available until September 30, 2020: Provided further, That up to $33,000,000 of fees collected in fiscal year 2019 pursuant to section 1702(h) of the Energy Policy Act of 2005 shall be credited as offsetting collections under this heading and used for necessary administrative expenses in this appropriation and shall remain available until September 30, 2020: Provided further, That to the extent that fees collected in fiscal year 2019 exceed $33,000,000, those excess amounts shall be credited as offsetting collections under this heading and available in future fiscal years only to the extent provided in advance in appropriations Acts: Provided further, That the sum herein appropriated from the general fund shall be reduced (1) as such fees are received during fiscal year 2019 (estimated at $15,000,000) and (2) to the extent that any remaining general fund appropriations can be derived from fees collected in previous fiscal years that are not otherwise appropriated, so as to result in a final fiscal year 2019 appropriation from the general fund estimated at $0: Provided further, That the
Department of Energy shall not subordinate any loan obligation to other financing in violation of section 1702 of the Energy Policy Act of 2005 or subordinate any Guaranteed Obligation to any loan or other debt obligations in violation of section 609.10 of title 10, Code of Federal Regulations.

**Advanced Technology Vehicles Manufacturing Loan Program**

For Department of Energy administrative expenses necessary in carrying out the Advanced Technology Vehicles Manufacturing Loan Program, $5,000,000, to remain available until September 30, 2020.

**Tribal Energy Loan Guarantee Program**

For Department of Energy administrative expenses necessary in carrying out the Tribal Energy Loan Guarantee Program, $1,000,000, to remain available until September 30, 2020.

**Office of Indian Energy Policy and Programs**

For necessary expenses for Indian Energy activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), $18,000,000, to remain available until expended: *Provided, That,* of the amount appropriated under this heading, $4,800,000 shall be available until September 30, 2020 for program direction.
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.), $266,000,000, to remain available until September 30, 2020, including the hire of passenger motor vehicles and official reception and representation expenses not to exceed $30,000, 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: Provided further, That moneys received by the Department for miscellaneous revenues estimated to total $96,000,000 in fiscal year 2019 may be retained and used for operating expenses within this account, 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 as collections are received during the fiscal year so as to result in a final fiscal year 2019 appropriation from the general fund estimated at not more than $170,000,000.
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, $10,850,000,000, to remain available until expended: Provided, That of such amount, $102,022,000 shall be available until September 30, 2020, for program direction.

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, $1,902,000,000, 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, $1,620,000,000, to remain available until expended: Provided, That of such amount, $48,042,000 shall be available until September 30, 2020, for program direction.

FEDERAL SALARIES AND EXPENSES

For expenses necessary for Federal Salaries and Expenses in the National Nuclear Security Administration, $408,000,000, to remain available until September 30, 2020, including official reception and representation expenses not to exceed $12,000.
ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental cleanup activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $5,988,000,000, to remain available until expended:

Provided, That of such amount, $300,000,000 shall be available until September 30, 2020, 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, $840,000,000, to remain available until expended: Provided, That of such amount,
$288,396,000 shall be available until September 30, 2020, for program direction.

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 $5,000: Provided, That during fiscal year 2019, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For expenses necessary for operation and maintenance of power transmission facilities and for 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, $6,500,000, including official reception and representation expenses in an amount not to exceed $1,500, 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 $6,500,000 collected by the Southeastern 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 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 2019 appropriation estimated at not more than $0: Provided further, That notwithstanding 31 U.S.C. 3302, up to $55,000,000 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 expenses necessary for operation and maintenance of power transmission facilities and for 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, $29,802,000, 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 $19,402,000 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 2019 appropriation estimated at not more than $10,400,000: Provided further, That notwithstanding 31 U.S.C. 3302, up to $10,000,000 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, $222,142,000, including official reception and rep-
resentation expenses in an amount not to exceed $1,500,
to remain available until expended, of which $220,000,000
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
$132,770,000 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 2019 appropriation estimated at not more than $89,372,000, of which $89,000,000 is derived from the Reclamation Fund: *Provided further*, That notwithstanding 31 U.S.C. 3302, up to $180,000,000 collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures: *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, $5,207,000, 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
$4,979,000 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 2019 appropriation estimated at not more than $228,000: Provided further, That for purposes of this appropriation, annual expenses means expenditures that are generally recovered in the same year that they are incurred: Provided further, That for fiscal year 2019, the Administrator of the Western Area Power Administration may accept up to $122,000 in funds contributed by United States power customers of the Falcon and Amistad Dams for deposit into the Falcon and Amistad Operating and Maintenance Fund, and such funds shall be available for the purpose for which contributed in like manner as if said sums had been specifically appropriated for such purpose: Provided further, That any such funds shall be available without further appropriation and without fiscal year limitation for use by the Commissioner of the United States
Section of the International Boundary and Water Commission for the sole purpose of operating, maintaining, repairing, rehabilitating, replacing, or upgrading the hydroelectric facilities at these Dams in accordance with agreements reached between the Administrator, Commissioner, and the power customers.

Federal Energy Regulatory Commission

Salaries and Expenses

For expenses necessary for 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, official reception and representation expenses not to exceed $3,000, and the hire of passenger motor vehicles, $369,900,000, to remain available until expended: Provided, That notwithstanding any other provision of law, not to exceed $369,900,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2019 shall be retained and used for expenses necessary 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 2019 so as to result in a final fiscal year 2019 appropriation from the general fund estimated at not more than $0.
GENERAL PROVISIONS—DEPARTMENT OF
ENERGY

Sec. 301. (a) No appropriation, funds, or authority
made available by this title for the Department of Energy
shall be used to initiate or resume any program, project,
or activity or to prepare or initiate Requests For Proposals
or similar arrangements (including Requests for
Quotations, Requests for Information, and Funding Op-
portunity Announcements) for a program, project, or ac-
tivity if the program, project, or activity has not been
funded by Congress.

(b)(1) Unless the Secretary of Energy notifies the
Committees on Appropriations of both Houses of Congress
at least 3 full business days in advance, none of the funds
made available in this title may be used to—

(A) make a grant allocation or discretionary
grant award totaling $1,000,000 or more;

(B) make a discretionary contract award or
Other Transaction Agreement totaling $1,000,000
or more, including a contract covered by the Federal
Acquisition Regulation;

(C) issue a letter of intent to make an alloca-
tion, award, or Agreement in excess of the limits in
subparagraph (A) or (B); or
(D) announce publicly the intention to make an
allocation, award, or Agreement in excess of the lim-
its in subparagraph (A) or (B).

(2) The Secretary of Energy shall submit to the Com-
mittees on Appropriations of both Houses of Congress
within 15 days of the conclusion of each quarter a report
detailing each grant allocation or discretionary grant
award totaling less than $1,000,000 provided during the
previous quarter.

(3) The notification required by paragraph (1) and
the report required by paragraph (2) shall include the re-
cipient of the award, the amount of the award, the fiscal
year for which the funds for the award were appropriated,
the account and program, project, or activity from which
the funds are being drawn, the title of the award, and
a brief description of the activity for which the award is
made.

(c) The Department of Energy may not, with respect
to any program, project, or activity that uses budget au-
thority made available in this title under the heading “De-
partment of Energy—Energy Programs”, enter into a
multiyear contract, award a multiyear grant, or enter into
a multiyear cooperative agreement unless—
(1) the contract, grant, or cooperative agreement is funded for the full period of performance as anticipated at the time of award; or

(2) the contract, grant, or cooperative agreement includes a clause conditioning the Federal Government’s obligation on the availability of future year budget authority and the Secretary notifies the Committees on Appropriations of both Houses of Congress at least 3 days in advance.

(d) Except as provided in subsections (e), (f), and (g), the amounts made available by this title shall be expended as authorized by law for the programs, projects, and activities specified in the “FY 2019 Senate” column in the “Department of Energy” table included under the heading “Title III—Department of Energy” in the report of the Committee on Appropriations accompanying this Act.

(e) The amounts made available by this title may be reprogrammed for any program, project, or activity, and the Department shall notify, and obtain the prior approval of, the Committees on Appropriations of both Houses of Congress at least 30 days prior to the use of any proposed reprogramming that would cause any program, project, or activity funding level to increase or decrease by more than $5,000,000 or 10 percent, whichever is less, during the time period covered by this Act.
(f) None of the funds provided in this title shall be available for obligation or expenditure through a re-programming of funds that—

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

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

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

(g)(1) The Secretary of Energy may waive any requirement or restriction in this section that applies to the use of funds made available for the Department of Energy if compliance with such requirement or restriction would pose a substantial risk to human health, the environment, welfare, or national security.

(2) The Secretary of Energy shall notify the Committees on Appropriations of both Houses of Congress of any waiver under paragraph (1) as soon as practicable, but not later than 3 days after the date of the activity to which a requirement or restriction would otherwise have applied. Such notice shall include an explanation of the substantial risk under paragraph (1) that permitted such waiver.
(h) 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. 302. 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. 3094) during fiscal year 2019 until the enactment of the Intelligence Authorization Act for fiscal year 2019.

SEC. 303. None of the funds made available in this title may be used to approve critical decision-2 or critical decision-3 under Department of Energy Order 413.3B, or any successive departmental guidance, for construction projects where the total project cost exceeds $100,000,000, until a separate independent cost estimate has been developed for the project for that critical decision.

SEC. 304. (a) DEFINITIONS.—In this section:

(1) AFFECTED INDIAN TRIBE.—The term “affected Indian tribe” has the meaning given the term
in section 2 of the Nuclear Waste Policy Act of 1982
(42 U.S.C. 10101).

(2) **HIGH-LEVEL RADIOACTIVE WASTE.**—The term “high-level radioactive waste” has the meaning

(3) **NUCLEAR WASTE FUND.**—The term “Nuclear Waste Fund” means the Nuclear Waste Fund established under section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)).

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Energy.

(5) **SPENT NUCLEAR FUEL.**—The term “spent nuclear fuel” has the meaning given the term in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

(b) **PILOT PROGRAM.**—Notwithstanding any provision of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.), the Secretary is authorized, in the current fiscal year and subsequent fiscal years, to conduct a pilot program to license, construct, and operate 1 or more Federal consolidated storage facilities to provide interim storage as needed for spent nuclear fuel and high-level radioactive waste, with priority for storage given to spent nu-
clear fuel located on sites without an operating nuclear reactor.

(c) REQUESTS FOR PROPOSALS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall issue a request for proposals for cooperative agreements—

(1) to obtain any license necessary from the Nuclear Regulatory Commission for the construction of 1 or more consolidated storage facilities;

(2) to demonstrate the safe transportation of spent nuclear fuel and high-level radioactive waste, as applicable; and

(3) to demonstrate the safe storage of spent nuclear fuel and high-level radioactive waste, as applicable, at the 1 or more consolidated storage facilities pending the construction and operation of deep geologic disposal capacity for the permanent disposal of the spent nuclear fuel.

(d) CONSENT-BASED APPROVAL.—Prior to siting a consolidated storage facility pursuant to this section, the Secretary shall enter into an agreement to host the facility with—

(1) the Governor of the State;
(2) each unit of local government within the jurisdiction of which the facility is proposed to be located; and

(3) each affected Indian tribe.

(e) APPLICABILITY.—In executing this section, the Secretary shall comply with—

(1) all licensing requirements and regulations of the Nuclear Regulatory Commission; and

(2) all other applicable laws (including regulations).

(f) PILOT PROGRAM PLAN.—Not later than 120 days after the date on which the Secretary issues the request for proposals under subsection (c), the Secretary shall submit to Congress a plan to carry out this section that includes—

(1) an estimate of the cost of licensing, constructing, and operating a consolidated storage facility, including the transportation costs, on an annual basis, over the expected lifetime of the facility;

(2) a schedule for—

(A) obtaining any license necessary to construct and operate a consolidated storage facility from the Nuclear Regulatory Commission;

(B) constructing the facility;
(C) transporting spent fuel to the facility;
and

(D) removing the spent fuel and decommissioning the facility;

(3) an estimate of the cost of any financial assistance, compensation, or incentives proposed to be paid to the host State, Indian tribe, or local government;

(4) an estimate of any future reductions in the damages expected to be paid by the United States for the delay of the Department of Energy in accepting spent fuel expected to result from the pilot program;

(5) recommendations for any additional legislation needed to authorize and implement the pilot program; and

(6) recommendations for a mechanism to ensure that any spent nuclear fuel or high-level radioactive waste stored at a consolidated storage facility pursuant to this section shall move to deep geologic disposal capacity, following a consent-based approval process for that deep geologic disposal capacity consistent with subsection (d), within a reasonable time after the issuance of a license to construct and operate the consolidated storage facility.
(g) Public Participation.—Prior to choosing a site for the construction of a consolidated storage facility under this section, the Secretary shall conduct 1 or more public hearings in the vicinity of each potential site and in at least 1 other location within the State in which the site is located to solicit public comments and recommendations.

(h) Use of Nuclear Waste Fund.—The Secretary may make expenditures from the Nuclear Waste Fund to carry out this section, subject to appropriations.