

(2) Grants under this subsection shall be awarded through a competitive peer-reviewed, merit-based process that may be conducted jointly with other agencies participating in the inter-agency program.

(e) **TRAINEESHIPS.**—The Secretary of Commerce is authorized to establish a program to provide traineeships, training, and experience to pre-doctoral and post-doctoral students and to scientists at the beginning of their careers who are interested in the oceans in human health research conducted under the NOAA initiative.

**SEC. 904. PUBLIC INFORMATION AND OUTREACH.**

(a) **IN GENERAL.**—The Secretary of Commerce, in consultation with other Federal agencies, and in cooperation with the National Sea Grant program, shall design and implement a program to disseminate information developed under the NOAA Oceans and Human Health Initiative, including research, assessments, and findings regarding the relationship between oceans and human health, on both a regional and national scale. The information, particularly with respect to potential health risks, shall be made available in a timely manner to appropriate Federal or State agencies, involved industries, and other interested persons through a variety of means, including through the Internet.

(b) **REPORT.**—As part of this program, the Secretary shall submit to Congress an annual report reviewing the results of the research, assessments, and findings developed under the NOAA Oceans and Human Health Initiative, as well as recommendations for improving or expanding the program.

**SEC. 905. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Secretary of Commerce to carry out the National Oceanic and Atmospheric Administration Oceans and Human Health Initiative, \$60,000,000 for fiscal years 2005 through 2008. Not less than 50 percent of the amounts appropriated to carry out the initiative shall be utilized in each fiscal year to support the extramural grant and traineeship programs of the Initiative.

This division may be cited as the “Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2005”.

**DIVISION C—ENERGY AND WATER DEVELOPMENT  
APPROPRIATIONS ACT, 2005**

**TITLE I**

**DEPARTMENT OF DEFENSE—CIVIL**

**DEPARTMENT OF THE ARMY**

**CORPS OF ENGINEERS—CIVIL**

The following appropriations shall be expended under the direction of the 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 control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related purposes.

## GENERAL INVESTIGATIONS

*For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related projects, restudy of authorized projects, miscellaneous investigations, and, when authorized by law, surveys and detailed studies and plans and specifications of projects prior to construction, \$144,500,000, to remain available until expended: Provided, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$300,000 for the continued preconstruction, engineering, and design of Waikiki Beach, Oahu, Hawaii, the project to be designed and evaluated, as authorized and that any recommendations for a National Economic Development Plan shall be accepted notwithstanding the extent of recreation benefits supporting the project features, in view of the fact that recreation is extremely important in sustaining and increasing the economic well-being of the State of Hawaii and the nation: Provided further, That in conducting the Southwest Valley Flood Damage Reduction Study, Albuquerque, New Mexico, the Secretary of the Army, acting through the Chief of Engineers, shall include an evaluation of flood damage reduction measures that would otherwise be excluded from the feasibility analysis based on policies regarding the frequency of flooding, the drainage areas, and the amount of runoff: Provided further, That for the Ohio Riverfront, Cincinnati, Ohio, project, the cost of planning and design undertaken by non-Federal interests shall be credited toward the non-Federal share of project design costs.*

## CONSTRUCTION, GENERAL

*For expenses necessary for the construction of river and harbor, flood control, shore protection and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law; for conducting detailed studies, and plans and specifications, of such projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such detailed studies, and plans and specifications, shall not constitute a commitment of the Government to construction); and for the benefit of federally listed species to address the effects of civil works projects owned or operated by the United States Army Corps of Engineers, \$1,796,089,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of construction costs for facilities under the Dredged Material Disposal Facilities program shall be derived from the Harbor Maintenance Trust Fund as authorized by Public Law 104-303; and of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, to cover one-half of the costs of construction and rehabilitation of inland waterways projects, (including the rehabilitation costs for Lock and Dam 11, Mississippi River, Iowa; Lock and Dam 19, Mississippi River, Iowa; Lock and Dam 24, Mississippi River, Illinois and Missouri; and Lock and Dam 3, Mississippi River, Minnesota) shall be derived from the Inland Waterways Trust Fund: Provided, That using \$12,500,000 of the funds appropriated herein, the Secretary of the*

*Army, acting through the Chief of Engineers, is directed to continue construction of the Dallas Floodway Extension, Texas, project, including the Cadillac Heights feature, generally in accordance with the Chief of Engineers report dated December 7, 1999: Provided further, That the Secretary of the Army is directed to accept advance funds, pursuant to section 11 of the River and Harbor Act of 1925, from the non-Federal sponsor of the Los Angeles Harbor, California, project authorized by section 101(b)(5) of Public Law 106-541: Provided further, That the Secretary of the Army is directed to accept advance funds, or any portion thereof, pursuant to section 11 of the River and Harbor Act of 1925, from the non-Federal sponsor of the Oakland Harbor, California, project authorized by section 101(a)(7) of Public Law 106-53: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$500,000 of the funds provided herein to continue construction of the Hawaii Water Management Project: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$3,000,000 of the funds appropriated herein to continue construction of the navigation project at Kaunalapau Harbor, Hawaii: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$3,000,000 of the funds provided herein for the Dam Safety and Seepage/Stability Correction Program to complete construction of seepage control features and repairs to the tainter gates at Waterbury Dam, Vermont: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$9,000,000 of the funds appropriated herein to proceed with planning, engineering, design or construction of the Grundy, Buchanan County, and Dickenson County, Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$15,000,000 of the funds appropriated herein to continue with the planning, engineering, design or construction of the Lower Mingo County, Upper Mingo County, Wayne County, McDowell County, West Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River Project: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the Dickenson County Detailed Project Report as generally defined in Plan 4 of the Huntington District Engineer's Draft Supplement to the section 202 General Plan for Flood Damage Reduction dated April 1997, including all Russell Fork tributary streams within the County and special considerations as may be appropriate to address the unique relocations and resettlement needs for the flood prone communities within the County: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$8,750,000 of the funds appropriated herein for the Clover Fork, City of Cumberland, Town of Martin, Pike County (including Levisa Fork and Tug Fork Tributaries), Bell County, Harlan County in accordance with the Draft Detailed Project Report dated January 2002, Floyd County, Martin County, Johnson County, and Knox County, Kentucky, detailed project report, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue with*

*the construction of the Seward Harbor, Alaska, project, in accordance with the Report of the Chief of Engineers, dated June 8, 1999, and the economic justification contained therein: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue with the construction of the False Pass, Alaska, project, in accordance with the Report of the Chief of Engineers, dated December 29, 2000: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with construction of the Sand Point Harbor, Alaska project, in accordance with the Report of the Chief of Engineers, dated October 13, 1998, and the economic justification contained therein: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to design and construct modifications to the Federal navigation project at Thomsen Harbor, Sitka, Alaska, authorized by Section 101 of the Water Resources Development Act of 1992: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, shall correct the design deficiency at Thomsen Harbor, Sitka, Alaska, by adding to, or extending, the existing breakwaters to reduce wave and swell motion within the harbor at an additional cost of \$1,000,000 at full Federal expense: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed and authorized to continue the work to replace and upgrade the dam and all connections to the existing system at Kake, Alaska: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to continue with the construction of the Wrangell Harbor, Alaska, project in accordance with the Chief of Engineer's report dated December 23, 1999: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the construction of the New York and New Jersey Harbor project, 50-foot deepening element, upon execution of the Project Cooperation Agreement: Provided further, That no funds made available under this Act or any other Act for any fiscal year may be used by the Secretary of the Army to carry out the construction of the Port Jersey element of the New York and New Jersey Harbor or reimbursement to the Local Sponsor for the construction of the Port Jersey element until commitments for construction of container handling facilities are obtained from the non-Federal sponsor for a second user along the Port Jersey element: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use funds appropriated for the navigation project, Tampa Harbor, Florida, to carry out, as part of the project, construction of passing lanes in an area approximately 3.5 miles long, centered on Tampa Bay Cut B, if the Secretary determines that such construction is technically sound, environmentally acceptable, and cost effective: Provided further, That using \$750,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to plan, design, and initiate reconstruction of the Cape Girardeau, Missouri, project, originally authorized by the Flood Control Act of 1950, at an estimated total cost of \$9,000,000, with cost sharing on the same basis as cost sharing for the project as originally authorized, if the Secretary determines that the reconstruction is technically sound and environmentally acceptable: Provided further, That the planned reconstruction shall be based on the most cost-effective engineering solution*

*and shall require no further economic justification: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed without further delay with work on the permanent bridge to replace Folsom Bridge Dam Road, Folsom, California, as authorized by the Energy and Water Development Appropriations Act, 2004 (Public Law 108–137), and, of the \$8,000,000 available for the American River Watershed (Folsom Dam Mini-Raise), California, project, up to \$5,000,000 of those funds be directed for the permanent bridge, with all remaining devoted to the Mini-Raise: Provided further, That the Secretary of the Army is directed to use \$1,365,000 of the funds appropriated herein to construct a project for flood control, Cass River, Spaulding Township, Michigan, pursuant to section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), notwithstanding that the benefits of the project may not exceed the estimated costs of the project: Provided further, That the non-Federal interest for the project shall receive credit towards its share of project costs in the amount of \$345,000 for work carried out by the non-Federal interest on the project prior to entering into a project cooperation agreement: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake and fund a demonstration project utilizing the Bidlocker system of escrowing contract bid documents: Provided further, that the system should provide a method of securing bidder documents prior to the award of the contracts, thus allowing the contractor to provide those documents to the Government in the case of disputes: Provided further, that the demonstration project should include use of the system on at least three contracts: Provided further, that a report on the results of the demonstration project shall be provided within one year of the date of enactment of this Act.*

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

*For expenses necessary for the flood damage reduction program for the Mississippi River alluvial valley below Cape Girardeau, Missouri, as authorized by law, \$324,500,000, to remain available until expended: Provided, That the Secretary of the Army, acting through the Chief of Engineers, using \$12,000,000 of the funds provided herein, is directed to continue design and real estate activities and to initiate the pump supply contract for the Yazoo Basin, Yazoo Backwater Pumping Plant, Mississippi: Provided further, That the pump supply contract shall be performed by awarding continuing contracts in accordance with 33 U.S.C. 621: Provided further, That the Secretary of the Army, acting through the Chief of Engineers is directed, with \$500,000 appropriated herein, to continue construction of water withdrawal features of the Grand Prairie, Arkansas, project.*

**OPERATION AND MAINTENANCE**

*For expenses necessary for the operation, maintenance, and care of existing river and harbor, flood and storm damage reduction, aquatic ecosystem restoration, and related projects authorized by law; for the benefit of federally listed species to address the effects of civil works projects owned or operated by the United States Army Corps of Engineers; for providing security for infrastructure owned*

*and operated by, or on behalf of, the United States Army Corps of Engineers, including administrative buildings and facilities, laboratories, and the Washington Aqueduct; for the maintenance of harbor channels provided by a State, municipality, or other public agency that serve essential navigation needs of general commerce, where authorized by law; and for surveys and charting of northern and northwestern lakes and connecting waters, clearing and straightening channels, and removal of obstructions to navigation, \$1,959,101,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of operation and maintenance costs for coastal harbors and channels shall be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662 may be derived from that fund; of which such sums as become available from the special account for the United States Army Corps of Engineers established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l-6a(i)), may be derived from that account for resource protection, research, interpretation, and maintenance activities related to resource protection in the areas at which outdoor recreation is available; and of which such sums as become available under section 217 of the Water Resources Development Act of 1996, Public Law 104-303, shall be used to cover the cost of operation and maintenance of the dredged material disposal facilities for which fees have been collected: Provided, That utilizing funds appropriated herein, for the Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, the Secretary of the Army, acting through the Chief of Engineers, is directed to reimburse the State of Delaware for normal operation and maintenance costs incurred by the State of Delaware for the SR1 Bridge from station 58+00 to station 293+00 between October 1, 2003, and September 30, 2004: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use funds appropriated herein to rehabilitate the existing dredged material disposal site for the project for navigation, Bodega Bay Harbor, California, and to continue maintenance dredging of the Federal channel: Provided further, That the Secretary shall make suitable material excavated from the Bodega Bay Harbor, California, disposal site as part of the rehabilitation effort available to the non-Federal sponsor, at no cost to the Federal Government, for use by the non-Federal sponsor in the development of public facilities: Provided further, That the Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake, at full federal expense, a detailed evaluation of the Albuquerque levees for purposes of determining structural integrity, impacts of vegetative growth, and performance under current hydrological conditions: Provided further, That using \$175,000 provided herein, the Secretary of the Army, acting through the Chief of Engineers is authorized to remove the sunken vessel, State of Pennsylvania from the Christina River in Delaware: Provided further, That the Corps of Engineers shall not allocate any funds to deposit dredged material along the Laguna Madre portion of the Gulf Intracoastal Waterway except at the placement areas specified in the Dredged Material Management Plan in section 2.11 of the Final Environmental Impact Statement for Maintenance Dredging of the Gulf Intracoastal Waterway, Laguna Madre, Texas, Nueces, Kleberg, Kenedy, Willacy, and Cameron Counties, Texas, prepared by the Corps of Engineers*

*dated September 2003: Provided further, That nothing in the above proviso shall prevent the Corps of Engineers from performing necessary maintenance operations along the Gulf Intracoastal Waterway if the following conditions are met: if the Corps proposes to use any placement areas that are not currently specified in the Dredged Material Management Plan and failure to use such alternative placement areas will result in the closure of any segment of the Gulf Intracoastal Waterway, then such proposal shall be analyzed in an Environmental Impact Statement (EIS) and comply with all other applicable requirements of the National Environmental Policy Act, 42 U.S.C. 4321, et seq., and all other applicable State and Federal laws, including the Clean Water Act, 33 U.S.C. 1251 et seq., the Endangered Species Act, 16 U.S.C. 1531 et seq., and the Coastal Zone Management Act, 16 U.S.C. 1451 et seq.: Provided further, That, of the funds made available, \$7,000,000 is to be used to perform work authorized in Section 136 of Public Law 108-357.*

#### REGULATORY PROGRAM

*For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, \$145,000,000, 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, \$165,000,000, to remain available until expended.*

#### GENERAL EXPENSES

*For expenses necessary for general administration and related civil works functions in the headquarters of the United States Army Corps of Engineers, the offices of the Division Engineers, the Humphreys Engineer Center Support Activity, the Institute for Water Resources, the United States Army Engineer Research and Development Center, and the United States Army Corps of Engineers Finance Center, \$167,000,000, to remain available until expended: Provided, That no part of any other appropriation provided in title I of this Act shall be available to fund the civil works activities of the Office of the Chief of Engineers or the civil works executive direction and management activities of the division offices: Provided further, That none of these funds shall be available to support an office of congressional affairs within the executive office of the Chief of Engineers.*

#### OFFICE OF ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

*For expenses necessary for the Office of Assistant Secretary of the Army (Civil Works), as authorized by 10 U.S.C. 3016(b)(3), \$4,000,000.*

#### ADMINISTRATIVE PROVISION

*Appropriations in this title shall be available for official reception and representation expenses (not to exceed \$5,000); and during the current fiscal year the Revolving Fund, Corps of Engineers,*

shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

*SEC. 101. Beginning in fiscal year 2005 and thereafter, agreements proposed for execution by the Assistant Secretary of the Army for Civil Works or the United States Army Corps of Engineers after the date of the enactment of this Act pursuant to section 4 of the Rivers and Harbor Act of 1915, Public Law 64–291; section 11 of the River and Harbor Act of 1925, Public Law 68–585; the Civil Functions Appropriations Act, 1936, Public Law 75–208; section 215 of the Flood Control, Act of 1968, as amended, Public Law 90–483; sections 104, 203, and 204 of the Water Resources Development Act of 1986, as amended, Public Law 99–662; section 206 of the Water Resources Development Act of 1992, as amended, Public Law 102–580; section 211 of the Water Resources Development Act of 1996, Public Law 104–303; and any other specific project authority, shall be limited to credits and reimbursements per project not to exceed \$10,000,000 in each fiscal year, and total credits and reimbursements for all applicable projects not to exceed \$50,000,000 in each fiscal year, except that for environmental infrastructure projects, the \$10,000,000 limitation shall apply to each state wherein such projects are undertaken.*

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

*SEC. 103. None of the funds appropriated in this or any other Act shall be used to demonstrate or implement any plans divesting or transferring any Civil Works missions, functions, or responsibilities of the United States Army Corps of Engineers to other government agencies without specific direction in a subsequent Act of Congress.*

*SEC. 104. ALAMOGORDO, NEW MEXICO. The project for flood protection at Alamogordo, New Mexico, authorized by the Flood Control Act of 1962 (Public Law 87–874), is modified to authorize and direct the Secretary to construct a flood detention basin to protect the north side of the City of Alamogordo, New Mexico, from flooding. The flood detention basin shall be constructed to provide protection from a 100-year flood event. The project cost share for the flood detention basin shall be consistent with section 103(a) of the Water Resources Development Act of 1986, notwithstanding section 202(a) of the Water Resources Development Act of 1996.*

*SEC. 105. None of the funds appropriated in this or any other Act may be used by the United States Army Corps of Engineers to support activities related to the proposed Indian Run Sanitary Landfill in Sandy Township, Stark County, Ohio.*

*SEC. 106. ST. GEORGES BRIDGE, DELAWARE. None of the funds made available in this Act may be used to carry out any activity relating to closure or removal of the St. Georges Bridge across the Intracoastal Waterway, Delaware River to Chesapeake Bay, Delaware and Maryland, including a hearing or any other activity relating to*



preparation of an environmental impact statement concerning the closure or removal.

**SEC. 107. WATER REALLOCATION, LAKE CUMBERLAND, KENTUCKY.** (a) *IN GENERAL.*—Subject to subsection (b), none of the funds made available by this Act may be used to carry out any water reallocation project or component under the Wolf Creek Project, Lake Cumberland, Kentucky, authorized under the Act of June 28, 1938 (52 Stat. 1215, chapter 795) and the Act of July 24, 1946 (60 Stat. 636, chapter 595).

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

**SEC. 108. LAKE TAHOE BASIN RESTORATION, NEVADA AND CALIFORNIA.** (a) *DEFINITION.*—In this section, the term “Lake Tahoe Basin” means the entire watershed drainage of Lake Tahoe including that portion of the Truckee River 1,000 feet downstream from the U.S. Bureau of Reclamation dam in Tahoe City, California.

(b) *ESTABLISHMENT OF PROGRAM.*—The Secretary may establish a program for providing environmental assistance to non-Federal interests in Lake Tahoe Basin.

(c) *FORM OF ASSISTANCE.*—Assistance under this section may be in the form of planning, design, and construction assistance for water-related environmental infrastructure and resource protection and development projects in Lake Tahoe Basin—

- (1) urban stormwater conveyance, treatment and related facilities;
- (2) watershed planning, science and research;
- (3) environmental restoration; and
- (4) surface water resource protection and development.

(d) *PUBLIC OWNERSHIP REQUIREMENT.*—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(e) *LOCAL COOPERATION AGREEMENT.*—

(1) *IN GENERAL.*—Before providing assistance under this section, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) *REQUIREMENTS.*—Each local cooperation agreement entered into under this subsection shall provide for the following:

(A) *PLAN.*—Development by the Secretary, in consultation with appropriate Federal and State and Regional officials, of appropriate environmental documentation, engineering plans and specifications.

(B) *LEGAL AND INSTITUTIONAL STRUCTURES.*—Establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation of the project by the non-Federal interest.

(3) *COST SHARING.*—

(A) *IN GENERAL.*—The Federal share of project costs under each local cooperation agreement entered into under this subsection shall be 75 percent. The Federal share may be in the form of grants or reimbursements of project costs.

(B) *CREDIT FOR DESIGN WORK.*—The non-Federal interest shall receive credit for the reasonable costs of planning

and design work completed by the non-Federal interest before entering into a local cooperation agreement with the Secretary for a project.

(C) *LAND, EASEMENTS, RIGHTS-OF-WAY, AND RELOCATIONS.*—The non-Federal interest shall receive credit for land, easements, rights-of-way, and relocations provided by the non-Federal interest toward the non-Federal share of project costs (including all reasonable costs associated with obtaining permits necessary for the construction, operation, and maintenance of the project on publicly owned or controlled land), but not to exceed 25 percent of total project costs.

(D) *OPERATION AND MAINTENANCE.*—The non-Federal share of operation and maintenance costs for projects constructed with assistance provided under this section shall be 100 percent.

(f) *APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.*—Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project to be carried out with assistance provided under this section.

(g) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated to carry out this section for the period beginning with fiscal year 2005, \$25,000,000, to remain available until expended.

*SEC. 109. WATERSHED MANAGEMENT AND DEVELOPMENT.* Section 503 of the Water Resources Development Act of 1996 (110 Stat. 3756) is amended in subsection (c) by inserting the following: “The non-Federal share of the cost to provide assistance for the Lake Tahoe watershed, California and Nevada, and Walker River Basin, Nevada may be provided as work-in-kind.”

*SEC. 110.* The Assistant Secretary of the Army for Civil Works shall enter into an agreement with the Orange County Water District, Orange County, California for purposes of water conservation storage and operations to provide at a minimum a conservation level up to elevation 498 feet mean sea level during the flood season, and up to elevation 505 feet mean sea level during the non-flood season at Prado Dam, California. The Orange County Water District shall pay to the Government only the separable costs associated with implementation and operation and maintenance of Prado Dam for water conservation.

*SEC. 111. BLACK WARRIOR-TOMBIGBEE RIVERS, ALABAMA.* (a) *IN GENERAL.*—The Secretary is authorized to construct a new project management office located in the city of Tuscaloosa, Alabama, at a location within the vicinity of the city, at full Federal expense.

(b) *TRANSFER OF LAND AND STRUCTURES.*—The Secretary is authorized to convey, or otherwise transfer to the city of Tuscaloosa, Alabama, at fair market value, the land and structures associated with the existing project management office, if the city agrees to assume full responsibility for demolition of the existing project management office.

(c) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated to carry out subsection (a) \$32,000,000.

*SEC. 112.* Within 75 days of the date of the Chief of Engineers Report on a water resource matter, the Assistant Secretary of the

Army (Civil Works) shall submit the report to the appropriate authorizing and appropriating committees of the Congress.

SEC. 113. *Within 90 days of the date of enactment of this Act, the Assistant Secretary of the Army (Civil Works) shall transmit to Congress his report on any water resources matter on which the Chief of Engineers has reported.*

SEC. 114. *COASTAL WETLAND CONSERVATION PROJECT FUNDING. (a) FUNDING.—Section 306 of the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3955) is amended—*

*(1) in subsection (a), by striking “, not to exceed \$70,000,000,”;*

*(2) in subsection (b), by striking “, not to exceed \$15,000,000”; and*

*(3) in subsection (c), by striking “, not to exceed \$15,000,000.”.*

*(b) PERIOD OF AUTHORIZATION.—Section 4(a) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)) is amended in the second sentence by striking “2009” and inserting “2019”.*

SEC. 115. *The Secretary of the Army, acting through the Chief of Engineers, is directed to design and construct a marina and associated facilities project capable of remaining in operation through extended drought conditions at Federal expense at Lake Sakakawea, North Dakota.*

SEC. 116. *CENTRAL CITY, FORT WORTH, TEXAS. The project for flood control and other purposes on the Trinity River and Tributaries, Texas, authorized by the River and Harbor Act of 1965 (Public Law 89–298), as modified, is further modified to authorize the Secretary to undertake the Central City River Project, as generally described in the Trinity River Vision Master Plan, dated April 2003, as amended, at a total cost not to exceed \$220,000,000, at a Federal cost of \$110,000,000, and a non-Federal cost of \$110,000,000, if the Secretary determines the work is technically sound and environmentally acceptable. The cost of work undertaken by the non-Federal interests before the date of execution of a project cooperation agreement shall be credited against the non-Federal share of project costs if the Secretary determines that the work is integral to the project.*

SEC. 117. *Notwithstanding any other provision of law, the Secretary of the Army is authorized to carry out, at full Federal expense, structural and non-structural projects for storm damage prevention and reduction, coastal erosion, and ice and glacial damage in Alaska, including relocation of affected communities and construction of replacement facilities.*

SEC. 118. *COOK INLET, ALASKA. (a) ANCHORAGE HARBOR.—*

*(1) HARBOR DEPTH.—The project for navigation improvements, Cook Inlet, Alaska (Anchorage Harbor, Alaska), authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 299) and modified by section 199 of the Water Resources Development Act of 1976 (90 Stat. 2944), is further modified to direct the Secretary of the Army to construct a harbor depth of minus 45 feet mean lower low water for a length of 10,860 feet at the modified Port of Anchorage intermodal marine facility at each phase of facility modification as such phases are completed and thereafter as the entire project is completed.*

(2) *COST-SHARING.*—If the Secretary determines that the modified Port of Anchorage will be used by vessels operated by the Department of Defense that have a draft of greater than 35 feet, the modification referred to in paragraph (1) shall be at full federal expense.

(3) *TRANSITIONAL DREDGING.*—Before completion of the project modification described in paragraph (1), the Secretary may conduct dredging to a depth of at least minus 35 feet mean lower low water in such locations as will allow maintenance of navigation and vessel access to the Port of Anchorage intermodal marine facility during modification of such facility. Such work shall be carried out by the Secretary in accordance with section 101 of the River and Harbor Act of 1958.

(4) *FACILITATING FACILITY MODIFICATION.*—Before establishing the harbor depth of minus 45 feet mean lower low water, the Secretary may undertake dredging in accordance with section 101 of the River and Harbor Act of 1958 within the design footprint of the modified intermodal marine facility referred to in paragraph (1) to facilitate modification. The Secretary may carry out such dredging as part of operation and maintenance of the project modified by paragraph (1).

(5) *MAINTENANCE.*—Federal maintenance shall continue for the existing project until the modified intermodal marine facility is completed. Federal maintenance of the modified project shall be in accordance with section 101 of the River and Harbor Act of 1958; except that the project shall be maintained at a depth of minus 45 feet mean lower low water for 10,860 feet referred to in paragraph (1).

(b) *NAVIGATION CHANNEL.*—The Secretary shall modify the channel in the exiting Cook Inlet Navigation Channel approach to Anchorage Harbor, Alaska, to run the entire length of Fire Island Range and Point Woronzof Range and shall modify the depth of that channel to minus 45 feet mean lower low water. The channel shall be maintained at a depth of minus 45 feet mean lower low water.

(c) *HYDRODYNAMIC MODELING.*—The Secretary shall carry out hydrodynamic modeling of the Knik Arm to identify causes of, and measures to address, shoaling at the Port of Anchorage, at a total cost of \$3,000,000.

(d) *ALTERNATIVES ANALYSIS.*—No alternative other than the alternative authorized in this section shall be considered in any analysis of the modified project to be carried out by the Secretary in accordance with this section.

**SEC. 119. NORTHERN WISCONSIN.** Section 154(c) of title I of division B of the Miscellaneous Appropriations Act, 2001, enacted into law by the Consolidated Appropriations Act, 2001 (114 Stat. 2763A–252), is amended—

(1) by inserting after “design” the following: “, construction,”; and

(2) by inserting before “wastewater treatment” the following: “navigation and inland harbor improvement and expansion.”

**SEC. 120. ST. CROIX FALLS ENVIRONMENTAL INFRASTRUCTURE, WISCONSIN. ADDITIONAL ASSISTANCE.**—Section 219(f) of the Water Resources Development Act of 1992 (106 Stat. 4835; 110 Stat. 3757;

113 Stat. 335; 114 Stat. 2763A–220) is amended by adding at the end the following:

“(73) ST. CROIX FALLS, WISCONSIN.—\$5,000,000 for waste water infrastructure, St. Croix Falls, Wisconsin.”

SEC. 121. BURNS HARBOR, INDIANA. *The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to dredge sediments, at 100 percent federal cost, in the vicinity of the Bailey (NIPSCO) intake structure that is approximately 5,000 feet east of and 2,300 feet north of the northern most point of the Burns Waterway Harbor Breakwater authorized by Public Law 89–298.*

SEC. 122. (a) *The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to transfer the unexpended balance of funds appropriated in Fiscal Years 2003 and 2004 for the Duck River Water Supply Infrastructure Project, Cullman, Alabama, to the Appalachian Regional Commission.*

(b) *Funds transferred pursuant to subsection (a) of this section may be used for planning, engineering, and construction activities on the Duck River Water Supply Infrastructure Project under the Memorandum of Agreement between the Appalachian Regional Commission and the Army Corps of Engineers and may be used to reimburse the City of Cullman, Alabama for expenses incurred by the City for planning and environmental work associated with the Project.*

SEC. 123. *With the funds previously provided under the account heading “Flood Control and Coastal Emergencies”, the Secretary of the Army, acting through the Chief of Engineers, is directed to provide assistance to Yakutat, Alaska Dam.*

SEC. 124. *The Secretary of the Army, acting through the Chief of Engineers, shall not implement changes to existing shoreline protection policies that have not been specifically authorized by Congress.*

## 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, \$46,275,000, to remain available until expended, of which \$15,469,000 shall be deposited into the Utah Reclamation Mitigation and Conservation Account for use by the Utah Reclamation Mitigation and Conservation Commission.*

*In addition, for necessary expenses incurred in carrying out related responsibilities of the Secretary of the Interior, \$1,734,000, to remain available until expended.*

##### BUREAU OF RECLAMATION

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

WATER AND RELATED RESOURCES  
(INCLUDING TRANSFER OF FUNDS)

*For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, Indian tribes, and others, \$859,481,000, to remain available until expended, of which \$53,299,000 shall be available for transfer to the Upper Colorado River Basin Fund and \$33,794,000 shall be available for transfer to the Lower Colorado River Basin Development Fund; of which such amounts as may be necessary may be advanced to the Colorado River Dam Fund; of which not more than \$500,000 is for high priority projects which shall be carried out by the Youth Conservation Corps, as authorized by 16 U.S.C. 1706: Provided further, That such transfers may be increased or decreased within the overall appropriation under this heading: Provided further, That of the total appropriated, the amount for program activities 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 \$250,000 is provided under the Weber Basin project for the Park City, Utah feasibility study: Provided further, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: Provided further, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a non-reimbursable basis.*

CENTRAL VALLEY PROJECT RESTORATION FUND

*For carrying out the programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, \$54,695,000, to be derived from such sums as may be collected in the Central Valley Project Restoration Fund pursuant to sections 3407(d), 3404(c)(3), 3405(f), and 3406(c)(1) of Public Law 102-575, to remain available until expended: Provided, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102-575: Provided further, That none of the funds made available under this heading may be used for the acquisition or leasing of water for in-stream purposes if the water is already committed to in-stream purposes by a court adopted decree or order.*

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, \$58,153,000 to be derived from the Rec-*

lamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: Provided, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

ADMINISTRATIVE PROVISIONS

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

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

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

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

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

SEC. 203. LOWER COLORADO RIVER BASIN DEVELOPMENT. (a) IN GENERAL.—Notwithstanding section 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)), no amount from the Lower Colorado River Basin Development Fund shall be paid to the general fund of the Treasury until each provision of the revised Stipulation Regarding a Stay and for Ultimate Judgment Upon the Satisfaction of Conditions, filed in United States District Court on April 24, 2003, in *Central Arizona Water Conservation District v. United States* (No. CIV 95-625-TUC-WDB (EHC), No. CIV 95-1720-OHX-EHC (Consolidated Action)), and any amendment or revision thereof, is met.

(b) PAYMENT TO GENERAL FUND.—If any of the provisions of the stipulation referred to in subsection (a) are not met by the date that is 10 years after the date of enactment of this Act, payments to the general fund of the Treasury shall resume in accordance with sec-

tion 403(f) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)).

(c) *AUTHORIZATION.*—Amounts in the Lower Colorado River Basin Development Fund that but for this section would be returned to the general fund of the Treasury shall not be expended until further Act of Congress.

*SEC. 204.* Funds under this title for Drought Emergency Assistance shall be made available primarily for leasing of water for specified drought related purposes from willing lessors, in compliance with existing State laws and administered under State water priority allocation. Such leases may be entered into with an option to purchase: Provided, That such purchase is approved by the State in which the purchase takes place and the purchase does not cause economic harm within the State in which the purchase is made.

*SEC. 205.* (a) Notwithstanding any other provision of law and hereafter, the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may not obligate funds, and may not use discretion, if any, to restrict, reduce or reallocate any water stored in Heron Reservoir or delivered pursuant to San Juan-Chama Project contracts, including execution of said contracts facilitated by the Middle Rio Grande Project, to meet the requirements of the Endangered Species Act, unless such water is acquired or otherwise made available from a willing seller or lessor and the use is in compliance with the laws of the State of New Mexico, including but not limited to, permitting requirements.

(b) Complying with the reasonable and prudent alternatives and the incidental take limits defined in the Biological Opinion released by the United States Fish and Wildlife Service dated March 17, 2003 combined with efforts carried out pursuant to Public Law 106-377, Public Law 107-66, and Public Law 108-7 fully meet all requirements of the Endangered Species Act (16 U.S.C. 1531 et seq.) for the conservation of the Rio Grande Silvery Minnow (*Hybognathus amarus*) and the Southwestern Willow Flycatcher (*Empidonax trailii extimus*) on the Middle Rio Grande in New Mexico.

(c) This section applies only to those Federal agency and non-Federal actions addressed in the March 17, 2003 Biological Opinion.

(d) Subsection (b) will remain in effect until March 16, 2013.

*SEC. 206.* The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into grants, cooperative agreements, and other agreements with irrigation or water districts and States to fund up to 50 percent of the cost of planning, designing, and constructing improvements that will conserve water, increase water use efficiency, or enhance water management through measurement or automation, at existing water supply projects within the states identified in the Act of June 17, 1902, as amended, and supplemented: Provided, That when such improvements are to federally owned facilities, such funds may be provided in advance on a non-reimbursable basis to an entity operating affected transferred works or may be deemed non-reimbursable for non-transferred works: Provided further, That the calculation of the non-Federal contribution shall provide for consideration of the value of any in-kind contributions, but shall not include funds received from other Federal agencies: Provided further, That



*the cost of operating and maintaining such improvements shall be the responsibility of the non-Federal entity: Provided further, That this section shall not supercede any existing project-specific funding authority: Provided further, That the Secretary is also authorized to enter into grants or cooperative agreements with universities or non-profit research institutions to fund water use efficiency research.*

*SEC. 207. ANIMAS-LA PLATA NON-INDIAN SPONSOR OBLIGATIONS. In accordance with the nontribal repayment obligation specified in Subsection 6(a)(3)(B) of the Colorado Ute Indian Rights Settlement Act of 1988 (Public Law 100-585), as amended by the Colorado Ute Settlement Act Amendments of 2000 (Public Law 106-554), the reimbursable cost upon which the cost allocation shall be based shall not exceed \$43,000,000, plus interest during construction for those parties not utilizing the up front payment option, of the first \$500,000,000 (January 2003 price level) of the total project costs. Consequently, the Secretary may forgive the obligation of the non-Indian sponsors relative to the \$163,000,000 increase in estimated total project costs that occurred in 2003.*

*SEC. 208. MONTANA WATER CONTRACTS EXTENSION. (a) AUTHORITY TO EXTEND.—The Secretary of the Interior may extend each of the water contracts listed in subsection (b) until the earlier of—*

*(1) the expiration of the 2-year period beginning on the date on which the contract would expire but for this section; or*

*(2) the date on which a new long-term water contract is executed by the parties to the contract listed in subsection (b).*

*(b) EXTENDED CONTRACTS.—The water contracts referred to in subsection (a) are the following:*

*(1) Contract Number 14-06-600-2078, as amended, for purchase of water between the United States of America and the City of Helena, Montana.*

*(2) Contract Number 14-06-600-2079, as amended, between the United States of America and the Helena Valley Irrigation District for water service.*

*(3) Contract Number 14-06-600-8734, as amended, between the United States of America and the Toston Irrigation District for water service.*

*(4) Contract Number 14-06-600-3592, as amended, between the United States and the Clark Canyon Water Supply Company, Inc., for water service and for a supplemental supply.*

*(5) Contract Number 14-06-600-3593, as amended, between the United States and the East Bench Irrigation District for water service.*

### TITLE III

#### DEPARTMENT OF ENERGY

##### ENERGY PROGRAMS

##### ENERGY SUPPLY

*For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for energy supply 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 9 passenger motor vehicles for replacement only, and one ambulance, \$946,272,000, to remain available until expended.*

#### NON-DEFENSE SITE ACCELERATION COMPLETION

*For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental management site acceleration completion 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, \$151,850,000, to remain available until expended.*

#### URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

*For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions, and other activities of title II of the Atomic Energy Act of 1954, as amended, and title X, subtitle A, of the Energy Policy Act of 1992, \$499,007,000, to be derived from the Fund, to remain available until expended, of which \$80,000,000 shall be available in accordance with title X, subtitle A, of the Energy Policy Act of 1992.*

#### NON-DEFENSE ENVIRONMENTAL SERVICES

*For Department of Energy expenses necessary for non-defense environmental services activities that indirectly support the accelerated cleanup and closure mission at environmental management sites, including the purchase, construction, and acquisition of plant and capital equipment and other necessary expenses, \$291,296,000, to remain available until expended.*

#### SCIENCE

*For Department of Energy expenses including the purchase, construction and acquisition of plant and capital equipment, and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of not to exceed four passenger motor vehicles for replacement only, including not to exceed one ambulance, \$3,628,902,000, to remain available until expended.*

#### NUCLEAR WASTE DISPOSAL

*For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, \$346,000,000, to remain available until expended: Provided, That of the funds made available in this Act for Nuclear Waste Disposal, \$2,000,000 shall be provided to the State of Nevada solely for expenditures, other*

*than salaries and expenses of State employees, to conduct scientific oversight responsibilities and participate in licensing activities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended: Provided further, That \$8,000,000 shall be provided to affected units of local governments, as defined in Public Law 97-425, to conduct scientific oversight responsibilities and participate in licensing activities pursuant to the Act: Provided further, That the distribution of the funds as determined by the units of local government shall be approved by the Department of Energy: Provided further, That the funds for the State of Nevada shall be made available solely to the Nevada Division of Emergency Management by direct payment and units of local government by direct payment: Provided further, That within 90 days of the completion of each Federal fiscal year, the Nevada Division of Emergency Management and the Governor of the State of Nevada and each local entity shall provide certification to the Department of Energy that all funds expended from such payments have been expended for activities authorized by Public Law 97-425 and this Act: Provided further, That failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: Provided further, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for lobbying activity as provided in 18 U.S.C. 1913; (2) used for litigation expenses; or (3) used to support multi-State efforts or other coalition building activities inconsistent with the restrictions contained in this Act: Provided further, That all proceeds and recoveries realized by the Secretary in carrying out activities authorized by the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended.*

#### DEPARTMENTAL ADMINISTRATION

##### (INCLUDING TRANSFER OF FUNDS)

*For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed \$35,000), \$240,426,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): Provided, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: Provided further, That moneys received by the Department for miscellaneous revenues estimated to total \$122,000,000 in fiscal year 2005 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of 31 U.S.C. 3302: Provided further, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 2005, and any related unappropriated receipt account*

*balances remaining from prior years' miscellaneous revenues, so as to result in a final fiscal year 2005 appropriation from the general fund estimated at not more than \$118,426,000.*

OFFICE OF THE INSPECTOR GENERAL

*For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$41,508,000, to remain available until expended.*

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

*For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of not to exceed 19 passenger motor vehicles, for replacement only, including not to exceed two buses; \$6,226,471,000, together with \$300,000,000 to be derived by transfer from the Department of Defense, to remain available until expended: Provided, That the Secretary of Defense shall reduce proportionately each program, project, and activity funded by appropriations in titles I through VI of the Department of Defense Appropriations Act, 2005 (Public Law 108-287) to fund this transfer: Provided further, That \$91,100,000 is authorized to be appropriated for Project 01-D-108, Microsystems and engineering sciences applications (MESA), Sandia National Laboratories, Albuquerque, New Mexico: Provided further, That \$40,000,000 is authorized to be appropriated for Project 04-D-125, chemistry and metallurgy facility replacement project, Los Alamos Laboratory, Los Alamos, New Mexico: Provided further, That \$1,500,000 is authorized to be appropriated for Project 04-D-103, Project engineering and design (PED), various locations: Provided further, That a plant or construction project for which amounts are made available under this heading but not exclusive to the Atomic Energy Defense Weapons Activities account, with a current estimated cost of less than \$10,000,000 is considered for purposes of section 3622 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 3623 of Public Law 107-314 as a construction project with a current estimated cost of less than the minor construction threshold.*

DEFENSE NUCLEAR NONPROLIFERATION

*For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense, defense nuclear nonproliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C.*

7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$1,420,397,000, 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, \$807,900,000, to remain available until expended.

#### OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Office of the Administrator in the National Nuclear Security Administration, including official reception and representation expenses (not to exceed \$12,000), \$356,200,000, to remain available until expended.

#### ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

##### DEFENSE SITE ACCELERATION COMPLETION

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense site acceleration completion activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$6,096,429,000, to remain available until expended.

##### DEFENSE ENVIRONMENTAL SERVICES

For Department of Energy expenses necessary for defense-related environmental services activities that indirectly support the accelerated cleanup and closure mission at environmental management sites, including the purchase, construction, and acquisition of plant and capital equipment and other necessary expenses, and the purchase of not to exceed three ambulances for replacement only, \$937,976,000, to remain available until expended.

##### OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses, necessary for atomic energy defense, other defense activities, and classified activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, \$692,691,000, to remain available until expended.

##### DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real

property or facility construction or expansion, \$231,000,000, to remain available until expended.

## POWER MARKETING ADMINISTRATIONS

### BONNEVILLE POWER ADMINISTRATION FUND

*Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for official reception and representation expenses in an amount not to exceed \$1,500. During fiscal year 2005, 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 the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, \$5,200,000, to remain available until expended: Provided, That notwithstanding the provisions of 31 U.S.C. 3302, up to \$34,000,000 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.*

### OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

*For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed \$1,500 in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, \$29,352,000, to remain available until expended: Provided, That, notwithstanding the provisions of 31 U.S.C. 3302, up to \$2,900,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures; in addition, notwithstanding 31 U.S.C. 3302, beginning in fiscal year 2005 and thereafter, such funds as are received by the Southwestern Power Administration from any State, municipality, corporation, association, firm, district, or individual as advance payment for work that is associated with Southwestern's transmission facilities, consistent with that authorized in section 5 of the Flood Control Act, shall be credited to this account and be available until expended.*

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

*For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7152), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed \$1,500; \$173,100,000, to remain available until expended, of which \$167,236,000 shall be derived from the Department of the Interior Reclamation Fund: Provided, That of the amount herein appropriated, \$10,000,000 shall be available until expended on a non-reimbursable basis to the Western Area Power Administration to design, construct, operate and maintain transmission facilities and services for the Animas-LaPlata Project as authorized by section 301(b)(10) of Public Law 106-554: Provided further, That of the amount herein appropriated, \$6,200,000 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 of the amount herein appropriated, \$6,000,000 shall be available until expended on a nonreimbursable basis to the Western Area Power Administration for Topock-Davis-Mead Transmission Line Upgrades: Provided further, That notwithstanding the provision of 31 U.S.C. 3302, up to \$227,600,000 collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures.*

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

*For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, \$2,827,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 423 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.*

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

*For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses (not to exceed \$3,000), \$210,000,000, to remain available until expended: Provided, That notwithstanding any other provision of law, not to exceed \$210,000,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2005 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 2005 so as to result in a final fiscal year*

2005 appropriation from the general fund estimated at not more than \$0.

## GENERAL PROVISIONS

### DEPARTMENT OF ENERGY

SEC. 301. (a)(1) *None of the funds in this or any other appropriations Act for fiscal year 2005 or any previous fiscal year may be used to make payments for a noncompetitive management and operating contract unless the Secretary of Energy has published in the Federal Register and submitted to the Committees on Appropriations of the House of Representatives and the Senate a written notification, with respect to each such contract, of the Secretary's decision to use competitive procedures for the award of the contract, or to not renew the contract, when the term of the contract expires.*

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

(b) *In this section:*

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

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

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

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

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

(2) *provide enhanced severance payments or other benefits for employees of the Department of Energy, under section 3161*



*of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 42 U.S.C. 7274h).*

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

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

*(TRANSFERS OF UNEXPENDED BALANCES)*

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

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

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

*SEC. 308. The Administrator of the National Nuclear Security Administration may authorize the manager of a covered nuclear weapons research, development, testing or production facility to engage in research, development, and demonstration activities with respect to the engineering and manufacturing capabilities at such facility in order to maintain and enhance such capabilities at such facility: Provided, That of the amount allocated to a covered nuclear weapons facility each fiscal year from amounts available to the Department of Energy for such fiscal year for national security programs, not more than an amount equal to 2 percent of such amount*

may be used for these activities: Provided further, That for purposes of this section, the term “covered nuclear weapons facility” means the following:

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

SEC. 309. Funds appropriated by this or any other Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2005 until the enactment of the Intelligence Authorization Act for fiscal year 2005.

SEC. 310. (a) The Secretary of Energy was directed to file a permit modification to the Waste Analysis Plan (WAP) and associated provisions contained in the Hazardous Waste Facility Permit for the Waste Isolation Pilot Plant (WIPP). For purposes of determining hereafter compliance of the modifications to the WAP with the hazardous waste analysis requirements of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), or other applicable laws waste confirmation for all waste received for storage and disposal shall be limited to: (1) confirmation that the waste contains no ignitable, corrosive, or reactive waste through the use of either radiography or visual examination of a statistically representative subpopulation of the waste; and (2) review of the Waste Stream Profile Form to verify that the waste contains no ignitable, corrosive, or reactive waste and that assigned Environmental Protection Agency hazardous waste numbers are allowed for storage and disposal by the WIPP Hazardous Waste Facility Permit.

(b) Compliance with the disposal room performance standards of the WAP hereafter shall be demonstrated exclusively by monitoring airborne volatile organic compounds in underground disposal rooms in which waste has been emplaced until panel closure.

SEC. 311. Section 3113 of Public Law 102-486 (42 U.S.C. 2297h-11) is amended by adding a new paragraph (4) to subsection (a), as follows:

“(4) In the event that a licensee requests the Secretary to accept for disposal depleted uranium pursuant to this subsection, the Secretary shall be required to take title to and possession of such depleted uranium at an existing DUF6 storage facility.”.

SEC. 312. The Department of Energy may use the funds appropriated by this Act to undertake any procurement action necessary to achieve its small business contracting goals set forth in Section (g) of the Small Business Act, 15 U.S.C. § 644(g): Provided, That, none of the funds appropriated by this Act may be used by the Department of Energy for procurement actions resulting from the break-out of requirements from current facility management and operating contracts unless, consistent with requirements of Subpart 19.4 of the Federal Acquisition Regulation, the Secretary of Energy or his duly authorized designee formally requests, considers, and renders an appropriate decision on the views of the Small Business Administration Breakout Procurement Center Representative or the Representative’s duly authorized designee concerning cost effectiveness, mission performance, security, safety, small business partici-

*pation, and other legitimate acquisition objectives of procurement actions at issue. No later than April 1, 2005, the Secretary of Energy shall submit a report to the Comptroller General and to Congress discussing the Secretary's plans required by Section 15(h) of the Small Business Act, 15 U.S.C. §644(h), for meeting the Department's statutory small business contracting goals while taking into account other legitimate acquisition objectives. In preparing the report, the Secretary shall request and consider the views of the Administrator of the Small Business Administration and the Director of the Office of Small and Disadvantaged Business Utilization of the Department of Energy. The report shall discuss the Department's policies and activities concerning break-outs of procurement requirements from current management and operating contracts, consistent with requirements of this Act, Section 15(h) of the Small Business Act, and Subpart 19.4 of the Federal Acquisition Regulations.*

*SEC. 313. None of the funds appropriated by this Act may be used by the Department of Energy to require its management and operating contractors to perform contract management, oversight, or administration functions prohibited by Section 7.503 of the Federal Acquisition Regulation in connection with any small business prime contract awarded by the Department of Energy.*

*SEC. 314. None of the funds in this Act may be used to dispose of transuranic waste in the Waste Isolation Pilot Plant which contains concentrations of plutonium in excess of 20 percent by weight for the aggregate of any material category on the date of enactment of this Act, or is generated after such date. For the purpose of this section, the material categories of transuranic waste at the Rocky Flats Environmental Technology Site include: (1) ash residues; (2) salt residue; (3) wet residues; (4) direct repackage residues; and (5) scrub alloy as referenced in the "Final Environmental Impact Statement on Management of Certain Plutonium Residues and Scrub Alloy Stored at the Rocky Flats Environmental Technology Site".*

#### TITLE IV

#### INDEPENDENT AGENCIES

##### APPALACHIAN REGIONAL COMMISSION

*For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, for necessary expenses for the Federal Co-Chairman and the alternate on the Appalachian Regional Commission, for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, \$66,000,000, 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, \$20,268,000, to remain available until expended.*

*DELTA REGIONAL AUTHORITY**SALARIES AND EXPENSES*

*For necessary expenses of the Delta Regional Authority and to carry out its activities, as authorized by the Delta Regional Authority Act of 2000, as amended, notwithstanding sections 382C(b)(2), 382F(d), and 382M(b) of said Act, \$6,048,000, to remain available until expended.*

*DENALI COMMISSION*

*For expenses of the Denali Commission including the purchase, construction and acquisition of plant and capital equipment as necessary and other expenses, \$67,000,000 notwithstanding the limitations contained in section 306(g) of the Denali Commission Act of 1998, \$2,500,000, to remain available until expended: Provided, That of the amounts provided to the Denali Commission, \$5,000,000 is for community showers and washeteria in villages with homes with no running water; \$13,000,000 is for the Juneau/Green's Creek/Hoonah Intertie project; \$3,200,000 is for the Swan Lake/Tyee Intertie project; \$5,000,000 is for multi-purpose community facilities including the Bering Straits Region, Dillingham, Moose Pass, Sterling, Funny River, Eclutna, and Anchor Point; \$10,000,000 is for teacher housing in remote villages such as Savoogna, Allakakaet, Hughes, Huslia, Minto, Nulato, and Ruby where there is limited housing available for teachers; \$10,000,000 is for facilities serving Native elders and senior citizens; and \$5,000,000 is for (1) the Rural Communications service to provide broadcast facilities in communities with no television or radio station, (2) the Public Broadcasting Digital Distribution Network to link rural broadcasting facilities together to improve economies of scale, share programming, and reduce operating costs and (3) rural public broadcasting facilities and equipment upgrades.*

*NUCLEAR REGULATORY COMMISSION**SALARIES AND EXPENSES*

*For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including official representation expenses (not to exceed \$15,000), and purchase of promotional items for use in the recruitment of individuals for employment, \$662,777,000, to remain available until expended: Provided, That of the amount appropriated herein, \$69,050,000 shall be derived from the Nuclear Waste Fund: Provided further, That revenues from licensing fees, inspection services, and other services and collections estimated at \$534,354,000 in fiscal year 2005 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 2005 so as to result in a final fiscal year 2005 appropriation estimated at not more than \$128,423,000.*

## OFFICE OF INSPECTOR GENERAL

*For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$7,518,000, to remain available until expended: Provided, That revenues from licensing fees, inspection services, and other services and collections estimated at \$6,766,200 in fiscal year 2005 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 2005 so as to result in a final fiscal year 2005 appropriation estimated at not more than \$751,800.*

## 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, \$3,177,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.*

## TITLE V

## GENERAL PROVISIONS

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

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

*SEC. 503. None of the funds made available in this Act may be used to deny requests for the public release of documents or evidence obtained through or in the Western Energy Markets: Enron Investigation (Docket No. PA02-2), the California Refund case (Docket No. EL00-95), the Anomalous Bidding Investigation (Docket No. IN03-10), or the Physical Withholding Investigation.*

*SEC. 504. EXTENSION OF PROHIBITION OF OIL AND GAS DRILLING IN THE GREAT LAKES. Section 503 of the Energy and Water Development Appropriations Act, 2002, (115 Stat. 512), as amended, is amended by striking "2005" and inserting in lieu thereof "2007".*

*SEC. 505. The Secretary of the Army is hereby authorized, without further appropriation, to transfer and advance funds to the Administrator of the Bonneville Power Administration for the purposes necessary to carry out joint activities in connection with Section 2406 of the Energy Policy Act of 1992.*

*SEC. 506. VOTING METHOD FOR DELTA REGIONAL AUTHORITY. Section 382B(c)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa-1(c)(1)) is amended—*

*(1) in subparagraph (A), by striking "2004" and inserting "2008"; and*

(2) in subparagraph (B), by striking “2005” and inserting “2009”.

**TITLE VI—REFORM OF THE BOARD OF DIRECTORS OF THE  
TENNESSEE VALLEY AUTHORITY**

**SEC. 601. CHANGE IN COMPOSITION, OPERATION, AND DUTIES OF THE  
BOARD OF DIRECTORS OF THE TENNESSEE VALLEY AU-  
THORITY.**

The Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.) is amended by striking section 2 and inserting the following:

**“SEC. 2. MEMBERSHIP, OPERATION, AND DUTIES OF THE BOARD OF DI-  
RECTORS.**

**“(a) MEMBERSHIP.—**

**“(1) APPOINTMENT.—**The Board of Directors of the Corporation (referred to in this Act as the ‘Board’) shall be composed of 9 members appointed by the President by and with the advice and consent of the Senate, at least 7 of whom shall be a legal resident of the service area of the Corporation.

**“(2) CHAIRMAN.—**The members of the Board shall select 1 of the members to act as chairman of the Board.

**“(b) QUALIFICATIONS.—**To be eligible to be appointed as a member of the Board, an individual—

**“(1) shall be a citizen of the United States;**

**“(2) shall have management expertise relative to a large for-profit or nonprofit corporate, government, or academic structure;**

**“(3) shall not be an employee of the Corporation;**

**“(4) shall make full disclosure to Congress of any investment or other financial interest that the individual holds in the energy industry; and**

**“(5) shall affirm support for the objectives and missions of the Corporation, including being a national leader in technological innovation, low-cost power, and environmental stewardship.**

**“(c) RECOMMENDATIONS.—**In appointing members of the Board, the President shall—

**“(1) consider recommendations from such public officials as—**

**“(A) the Governors of States in the service area;**

**“(B) individual citizens;**

**“(C) business, industrial, labor, electric power distribution, environmental, civic, and service organizations; and**

**“(D) the congressional delegations of the States in the service area; and**

**“(2) seek qualified members from among persons who reflect the diversity, including the geographical diversity, and needs of the service area of the Corporation.**

**“(d) TERMS.—**

**“(1) IN GENERAL.—**A member of the Board shall serve a term of 5 years. A member of the Board whose term has expired may continue to serve after the member’s term has expired until the date on which a successor takes office, except that the member shall not serve beyond the end of the session of Congress in which the term of the member expires.

“(2) VACANCIES.—A member appointed to fill a vacancy on the Board occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of that term.

“(e) QUORUM.—

“(1) IN GENERAL.—Five of the members of the Board shall constitute a quorum for the transaction of business.

“(2) VACANCIES.—A vacancy on the Board shall not impair the power of the Board to act.

“(f) COMPENSATION.—

“(1) IN GENERAL.—A member of the Board shall be entitled to receive—

“(A) a stipend of—

“(i) \$45,000 per year; or

“(ii)(I) in the case of the chairman of any committee of the Board created by the Board, \$46,000 per year; or

“(II) in the case of the chairman of the Board, \$50,000 per year; and

“(B) travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service under section 5703 of title 5, United States Code.

“(2) ADJUSTMENTS IN STIPENDS.—The amount of the stipend under paragraph (1)(A)(i) shall be adjusted by the same percentage, at the same time and manner, and subject to the same limitations as are applicable to adjustments under section 5318 of title 5, United States Code.

“(g) DUTIES.—

“(1) IN GENERAL.—The Board shall—

“(A) establish the broad goals, objectives, and policies of the Corporation that are appropriate to carry out this Act;

“(B) develop long-range plans to guide the Corporation in achieving the goals, objectives, and policies of the Corporation and provide assistance to the chief executive officer to achieve those goals, objectives, and policies;

“(C) ensure that those goals, objectives, and policies are achieved;

“(D) approve an annual budget for the Corporation;

“(E) adopt and submit to Congress a conflict-of-interest policy applicable to members of the Board and employees of the Corporation;

“(F) establish a compensation plan for employees of the Corporation in accordance with subsection (i);

“(G) approve all compensation (including salary or any other pay, bonuses, benefits, incentives, and any other form of remuneration) of all managers and technical personnel that report directly to the chief executive officer (including any adjustment to compensation);

“(H) ensure that all activities of the Corporation are carried out in compliance with applicable law;

“(I) create an audit committee, composed solely of Board members independent of the management of the Corporation, which shall—

“(i) in consultation with the inspector general of the Corporation, recommend to the Board an external auditor;

“(ii) receive and review reports from the external auditor of the Corporation and inspector general of the Corporation; and

“(iii) make such recommendations to the Board as the audit committee considers necessary;

“(J) create such other committees of Board members as the Board considers to be appropriate;

“(K) conduct such public hearings as it deems appropriate on issues that could have a substantial effect on—

“(i) the electric ratepayers in the service area; or

“(ii) the economic, environmental, social, or physical well-being of the people of the service area;

“(L) establish the electricity rates charged by the Corporation; and

“(M) engage the services of an external auditor for the Corporation.

“(2) MEETINGS.—The Board shall meet at least 4 times each year.

“(h) CHIEF EXECUTIVE OFFICER.—

“(1) APPOINTMENT.—The Board shall appoint a person to serve as chief executive officer of the Corporation.

“(2) QUALIFICATIONS.—

“(A) IN GENERAL.—To serve as chief executive officer of the Corporation, a person—

“(i) shall have senior executive-level management experience in large, complex organizations;

“(ii) shall not be a current member of the Board or have served as a member of the Board within 2 years before being appointed chief executive officer; and

“(iii) shall comply with the conflict-of-interest policy adopted by the Board.

“(B) EXPERTISE.—In appointing a chief executive officer, the Board shall give particular consideration to appointing an individual with expertise in the electric industry and with strong financial skills.

“(3) TENURE.—The chief executive officer shall serve at the pleasure of the Board.

“(i) COMPENSATION PLAN.—

“(1) IN GENERAL.—The Board shall approve a compensation plan that specifies all compensation (including salary or any other pay, bonuses, benefits, incentives, and any other form of remuneration) for the chief executive officer and employees of the Corporation.

“(2) ANNUAL SURVEY.—The compensation plan shall be based on an annual survey of the prevailing compensation for similar positions in private industry, including engineering and electric utility companies, publicly owned electric utilities, and Federal, State, and local governments.

“(3) CONSIDERATIONS.—The compensation plan shall provide that education, experience, level of responsibility, geographic differences, and retention and recruitment needs will be taken into account in determining compensation of employees.



“(4) POSITIONS AT OR BELOW LEVEL IV.—The chief executive officer shall determine the salary and benefits of employees whose annual salary is not greater than the annual rate payable for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

“(5) POSITIONS ABOVE LEVEL IV.—On the recommendation of the chief executive officer, the Board shall approve the salaries of employees whose annual salaries would be in excess of the annual rate payable for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.”.

**SEC. 602. CHANGE IN MANNER OF APPOINTMENT OF STAFF.**

Section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b) is amended—

(1) by striking the first undesignated paragraph and inserting the following:

“(a) APPOINTMENT BY THE CHIEF EXECUTIVE OFFICER.—The chief executive officer shall appoint, with the advice and consent of the Board, and without regard to the provisions of the civil service laws applicable to officers and employees of the United States, such managers, assistant managers, officers, employees, attorneys, and agents as are necessary for the transaction of the business of the Corporation.”; and

(2) by striking “All contracts” and inserting the following: “(b) WAGE RATES.—All contracts”.

**SEC. 603. CONFORMING AMENDMENTS.**

(a) The Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.) is amended—

(1) by striking “board of directors” each place it appears and inserting “Board of Directors”; and

(2) by striking “board” each place it appears and inserting “Board”.

(b) Section 9 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831h) is amended—

(1) by striking “The Comptroller General of the United States shall audit” and inserting the following:

“(c) AUDITS.—The Comptroller General of the United States shall audit”; and

(2) by striking “The Corporation shall determine” and inserting the following:

“(d) ADMINISTRATIVE ACCOUNTS AND BUSINESS DOCUMENTS.—The Corporation shall determine”.

(c) Title 5, United States Code, is amended—

(1) in section 5314, by striking “Chairman, Board of Directors of the Tennessee Valley Authority.”; and

(2) in section 5315, by striking “Members, Board of Directors of the Tennessee Valley Authority.”.

**SEC. 604. APPOINTMENTS; EFFECTIVE DATE; TRANSITION.**

(a) APPOINTMENTS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the President shall submit to the Senate nominations of 6 persons to serve as members of the Board of Directors of the Tennessee Valley Authority in addition to the members serving on the date of enactment of this Act.

(2) *INITIAL TERMS.*—Notwithstanding section 2(d) of the Tennessee Valley Authority Act of 1933 (as amended by this title), in making the appointments under paragraph (1), the President shall appoint—

(A) 2 members for a term to expire on May 18, 2007;

(B) 2 members for a term to expire on May 18, 2009;

and

(C) 2 members for a term to expire on May 18, 2011.

(b) *EFFECTIVE DATE.*—The amendments made by this title take effect on the later of—

(1) the date on which at least 3 persons nominated under subsection (a) take office; or

(2) May 18, 2005.

(c) *SELECTION OF CHAIRMAN.*—The Board of Directors of the Tennessee Valley Authority shall select 1 of the members to act as chairman of the Board not later than 30 days after the effective date specified in subsection (b).

(d) *CONFLICT-OF-INTEREST POLICY.*—The Board of Directors of the Tennessee Valley Authority shall adopt and submit to Congress a conflict-of-interest policy, as required by section 2(g)(1)(E) of the Tennessee Valley Authority Act of 1933 (as amended by this title), as soon as practicable after the effective date specified in subsection (b).

(e) *TRANSITION.*—A person who is serving as a member of the board of directors of the Tennessee Valley Authority on the date of enactment of this Act—

(1) shall continue to serve until the end of the current term of the member; but

(2) after the effective date specified in subsection (b), shall serve under the terms of the Tennessee Valley Authority Act of 1933 (as amended by this title).

This Division may be cited as the “Energy and Water Development Appropriations Act, 2005”.

## **DIVISION D—FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2005**

### **TITLE I—EXPORT AND INVESTMENT ASSISTANCE**

#### **EXPORT-IMPORT BANK OF THE UNITED STATES**

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: Provided, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country, other than a nuclear-weapon state as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act, that has detonated a nuclear explosive after the date of the enactment of this Act: Provided further, That notwithstanding section 1(c) of Public