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[Report No. 112-____]

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

____ --, 2011

Mr. FRELINGHUYSEN, from the Committee on Appropriations, reported the following bill; which was committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the following sums are appropriated, out of any
4 money in the Treasury not otherwise appropriated, for en-
5 ergy and water development and related agencies for the
6 fiscal year ending September 30, 2012, and for other pur-
7 poses, namely:

8 TITLE I—CORPS OF ENGINEERS—CIVIL

9 DEPARTMENT OF THE ARMY

10 CORPS OF ENGINEERS—CIVIL

11 The following appropriations shall be expended under
12 the direction of the Secretary of the Army and the super-
13 vision of the Chief of Engineers for authorized civil func-
14 tions of the Department of the Army pertaining to rivers
15 and harbors, flood and storm damage reduction, shore
16 protection, aquatic ecosystem restoration, and related ef-
17 forts.

18 INVESTIGATIONS

19 For expenses necessary when authorized by law for
20 the collection and study of basic information pertaining
21 to river and harbor, flood and storm damage reduction,
22 shore protection, aquatic ecosystem restoration, and re-
23 lated needs; for surveys and detailed studies and plans and
24 specifications of proposed river and harbor, flood and
25 storm damage reduction, shore protection, and aquatic

1 ecosystem restoration projects and related efforts prior to
2 construction; for restudy of authorized projects; and for
3 miscellaneous investigations and, when authorized by law,
4 surveys and detailed studies and plans and specifications
5 of projects prior to construction, \$104,000,000, to remain
6 available until expended: *Provided*, That except as pro-
7 vided in section 101, the amounts made available under
8 this paragraph shall be expended as authorized by law for
9 the programs, projects and activities specified in the text
10 and table under this heading in the report of the Com-
11 mittee on Appropriations of the House of Representatives
12 to accompany this Act.

13 CONSTRUCTION

14 (INCLUDING TRANSFERS AND RESCISSION OF FUNDS)

15 For expenses necessary for the construction of river
16 and harbor, flood and storm damage reduction, shore pro-
17 tection, aquatic ecosystem restoration, and related
18 projects authorized by law; for conducting detailed studies
19 and plans and specifications of such projects (including
20 those involving participation by States, local governments,
21 or private groups) authorized or made eligible for selection
22 by law (but such detailed studies and plans and specifica-
23 tions shall not constitute a commitment of the Govern-
24 ment to construction), \$1,615,941,000, to remain avail-
25 able until expended; of which such sums as are necessary

1 to cover the Federal share of construction costs for facili-
2 ties under the Dredged Material Disposal Facilities pro-
3 gram shall be derived from the Harbor Maintenance Trust
4 Fund as authorized by the Water Resources Development
5 Act of 1996 (Public Law 104–303); and of which such
6 sums as are necessary to cover one-half of the costs of
7 construction, replacement, rehabilitation, and expansion of
8 inland waterways projects (including only Olmsted Lock
9 and Dam, Ohio River, Illinois and Kentucky; Emsworth
10 Locks and Dam, Ohio River, Pennsylvania; Lock and
11 Dams 2, 3, and 4, Monongahela River, Pennsylvania; and
12 Lock and Dam 27, Mississippi River, Illinois) shall be de-
13 rived from the Inland Waterways Trust Fund: *Provided*,
14 That of the unobligated balances from prior year appro-
15 priations available under this heading, \$50,000,000 is re-
16 scinded: *Provided further*, That no amounts may be re-
17 scinded from amounts that were designated by the Con-
18 gress as an emergency requirement pursuant to the Con-
19 current Resolution on the Budget or the Balanced Budget
20 and Emergency Deficit Control Act of 1985, as amended:
21 *Provided further*, That except as provided in section 101,
22 the amounts made available under this paragraph shall be
23 expended as authorized by law for the programs, projects,
24 and activities specified in the text and table under this

1 heading in the report of the Committee on Appropriations
2 of the House of Representatives to accompany this Act.

3 MISSISSIPPI RIVER AND TRIBUTARIES

4 For expenses necessary for flood damage reduction
5 projects and related efforts in the Mississippi River allu-
6 vial valley below Cape Girardeau, Missouri, as authorized
7 by law, \$210,000,000, to remain available until expended,
8 of which such sums as are necessary to cover the Federal
9 share of eligible operation and maintenance costs for in-
10 land harbors shall be derived from the Harbor Mainte-
11 nance Trust Fund: *Provided*, That except as provided in
12 section 101, the amounts made available under this para-
13 graph shall be expended as authorized by law for the pro-
14 grams, projects, and activities specified in the text and
15 table under this heading in the report of the Committee
16 on Appropriations of the House of Representatives to ac-
17 company this Act.

18 OPERATION AND MAINTENANCE

19 For expenses necessary for the operation, mainte-
20 nance, and care of existing river and harbor, flood and
21 storm damage reduction, aquatic ecosystem restoration,
22 and related projects authorized by law; providing security
23 for infrastructure owned or operated by the Corps of Engi-
24 neers, including administrative buildings and laboratories;
25 maintaining harbor channels provided by a State, munici-

1 pality, or other public agency that serve essential naviga-
2 tion needs of general commerce, when authorized by law;
3 surveying and charting northern and northwestern lakes
4 and connecting waters; clearing and straightening chan-
5 nels; and removing obstructions to navigation,
6 \$2,366,465,000, to remain available until expended, of
7 which such sums as are necessary to cover the Federal
8 share of eligible operation and maintenance costs for
9 coastal harbors and channels and for inland harbors shall
10 be derived from the Harbor Maintenance Trust Fund; of
11 which such sums as become available from the special ac-
12 count for the Corps of Engineers established by the Land
13 and Water Conservation Act of 1965 (16 U.S.C. 460l-
14 6a(i)) shall be derived from that account for resource pro-
15 tection, research, interpretation, and maintenance activi-
16 ties related to resource protection in the areas at which
17 outdoor recreation is available; and of which such sums
18 as become available from fees collected under section 217
19 of the Water Resources Development Act of 1996 (Public
20 Law 104-303) shall be used to cover the cost of operation
21 and maintenance of the dredged material disposal facilities
22 for which such fees have been collected: *Provided*, That
23 1 percent of the total amount of funds provided for each
24 of the programs, projects or activities funded under this
25 heading shall not be allocated to a field operating activity

1 prior to the beginning of the fourth quarter of the fiscal
2 year and shall be available for use by the Chief of Engi-
3 neers to fund such emergency activities as the Chief of
4 Engineers determines to be necessary and appropriate,
5 and that the Chief of Engineers shall allocate during the
6 fourth quarter any remaining funds which have not been
7 used for emergency activities proportionally in accordance
8 with the amounts provided for the programs, projects or
9 activities: *Provided further*, That except as provided in sec-
10 tion 101, the amounts made available under this para-
11 graph shall be expended as authorized by law for the pro-
12 grams, projects, and activities specified in the text and
13 table under this heading in the report of the Committee
14 on Appropriations of the House of Representatives to ac-
15 company this Act.

16 REGULATORY PROGRAM

17 For expenses necessary for administration of laws
18 pertaining to regulation of navigable waters and wetlands,
19 \$196,000,000, to remain available until expended.

20 FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM

21 For expenses necessary to clean up contamination
22 from sites in the United States resulting from work per-
23 formed as part of the Nation's early atomic energy pro-
24 gram, \$109,000,000, to remain available until expended.

1 FLOOD CONTROL AND COASTAL EMERGENCIES

2 For expenses necessary to prepare for floods, hurri-
3 canes, and other natural disasters and support emergency
4 operations, repairs, and other activities in response to
5 such disasters as authorized by law, \$27,000,000, to re-
6 main available until expended.

7 EXPENSES

8 For expenses necessary for the supervision and gen-
9 eral administration of the civil works program in the head-
10 quarters of the Corps of Engineers and the offices of the
11 Division Engineers; and for costs of management and op-
12 eration of the Humphreys Engineer Center Support Activ-
13 ity, the Institute for Water Resources, the United States
14 Army Engineer Research and Development Center, and
15 the United States Army Corps of Engineers Finance Cen-
16 ter allocable to the civil works program, \$185,000,000, to
17 remain available until expended, of which not to exceed
18 \$5,000 may be used for official reception and representa-
19 tion purposes and only during the current fiscal year: *Pro-*
20 *vided*, That no part of any other appropriation in this title
21 shall be available to fund the civil works activities of the
22 Office of the Chief of Engineers or the civil works execu-
23 tive direction and management activities of the division
24 offices: *Provided further*, That any Flood Control and
25 Coastal Emergencies appropriation may be used to fund

1 the supervision and general administration of emergency
2 operations, repairs, and other activities in response to any
3 flood, hurricane, or other natural disaster.

4 OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
5 FOR CIVIL WORKS

6 For the Office of the Assistant Secretary of the Army
7 for Civil Works as authorized by section 3016(b)(3) of
8 title 10, United States Code, \$5,000,000, to remain avail-
9 able until expended.

10 ADMINISTRATIVE PROVISION

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

15 GENERAL PROVISIONS, CORPS OF
16 ENGINEERS—CIVIL

17 (INCLUDING TRANSFERS OF FUNDS)

18 SEC. 101. (a) None of the funds provided in this title
19 shall be available for obligation or expenditure through a
20 reprogramming of funds that—

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

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

1 (3) increases funds or personnel for any pro-
2 gram, project, or activity for which funds are denied
3 or restricted by this Act;

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

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

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

13 (b) Subsection (a)(1) shall not apply to any project
14 or activity authorized under section 205 of the Flood Con-
15 trol Act of 1948, section 14 of the Flood Control Act of
16 1946, section 208 of the Flood Control Act of 1954, sec-
17 tion 107 of the River and Harbor Act of 1960, section
18 103 of the River and Harbor Act of 1962, section 111
19 of the River and Harbor Act of 1968, section 1135 of the
20 Water Resources Development Act of 1986, section 206
21 of the Water Resources Act of 1996, or section 204 of
22 the Water Resources Act of 1992.

23 (c) This section shall not apply to additional flood
24 and coastal storm damage reduction and navigation pro-
25 gram funds provided under “Remaining Items” in the ta-

1 bles under the headings “Corps of Engineers-Civil—Con-
2 struction” and “Corps of Engineers-Civil—Operation and
3 Maintenance” in the report of the Committee on Appro-
4 priations of the House of Representatives to accompany
5 this Act.

6 (d) The Corps of Engineers shall submit reports on
7 a quarterly basis to the Committees on Appropriations of
8 the House of Representatives and the Senate detailing all
9 the funds reprogrammed between programs, projects, ac-
10 tivities, or categories of funding. The first quarterly report
11 shall be submitted not later than 60 days after the date
12 of enactment of this Act.

13 SEC. 102. None of the funds in this Act, or previous
14 Acts, making funds available for Energy and Water Devel-
15 opment, shall be used to implement any pending or future
16 competitive sourcing actions under OMB Circular A-76 or
17 High Performing Organizations for the Army Corps of
18 Engineers.

19 SEC. 103. None of the funds made available in this
20 title may be used to award or modify any contract that
21 commits funds beyond the amounts appropriated for that
22 program, project, or activity that remain unobligated, ex-
23 cept that such amounts may include any funds that have
24 been made available through reprogramming pursuant to
25 section 101.

1 SEC. 104. None of the funds in this Act, or previous
2 Acts, making funds available for Energy and Water Devel-
3 opment, shall be used to award any continuing contract
4 that commits additional funding from the Inland Water-
5 ways Trust Fund unless or until such time that a long-
6 term mechanism to enhance revenues in this Fund suffi-
7 cient to meet the cost-sharing authorized in the Water Re-
8 sources Development Act of 1986 (Public Law 99–662)
9 is enacted.

10 SEC. 105. Not later than 90 days after the date of
11 the Chief of Engineers Report on a water resource matter,
12 the Assistant Secretary of the Army for Civil Works shall
13 submit the report to the appropriate authorizing and ap-
14 propriating committees of the Congress.

15 SEC. 106. During the 1-year period beginning on the
16 date of enactment of this Act, the Secretary of the Army
17 is authorized to implement measures recommended in the
18 efficacy study authorized under section 3061 of the Water
19 Resources Development Act of 2007 (121 Stat. 1121) or
20 in interim reports, with such modifications or emergency
21 measures as the Secretary of the Army determines to be
22 appropriate, to prevent aquatic nuisance species from dis-
23 persing into the Great Lakes by way of any hydrologic
24 connection between the Great Lakes and the Mississippi
25 River Basin.

1 SEC. 107. The Secretary is authorized to transfer to
2 “Corps of Engineers-Civil—Construction” up to
3 \$100,000,000 of the funds provided for reinforcing or re-
4 placing flood walls under the heading “Corps of Engi-
5 neers-Civil—Flood Control and Coastal Emergencies” in
6 Public Law 109–234 and Public Law 110–252 and up to
7 \$75,000,000 of the funds provided for projects and meas-
8 ures for the West Bank and Vicinity and Lake
9 Ponchartrain and Vicinity projects under the heading
10 “Corps of Engineers-Civil—Flood Control and Coastal
11 Emergencies” in Public Law 110–28, to be used with
12 funds provided for the West Bank and Vicinity project
13 under the heading “Corps of Engineers-Civil—Construc-
14 tion” in Public Law 110–252 and Public Law 110–329,
15 consistent with 65 percent Federal and 35 percent non-
16 Federal cost share and the financing of, and payment
17 terms for, the non-Federal cash contribution associated
18 with the West Bank and Vicinity project.

19 SEC. 108. The Secretary of the Army may transfer
20 to the Fish and Wildlife Service, and the Fish and Wildlife
21 Service may accept and expend, up to \$3,800,000 of funds
22 provided in this title under the heading “Operation and
23 Maintenance” to mitigate for fisheries lost due to Corps
24 of Engineers projects.

1 SEC. 109. None of the funds made available by this
2 Act or any subsequent Act making appropriations for En-
3 ergy and Water Development may be used by the Corps
4 of Engineers to develop, adopt, implement, administer, or
5 enforce a change or supplement to the rule dated Novem-
6 ber 13, 1986, or guidance documents dated January 15,
7 2003, and December 2, 2008, pertaining to the definition
8 of waters under the jurisdiction of the Federal Water Pol-
9 lution Control Act (33 U.S.C. 1251 et seq.).

10 SEC. 110. None of the funds made available in this
11 Act may be used by the Corps of Engineers to relocate,
12 or study the relocation of, any regional division head-
13 quarters of the Corps located at a military installation or
14 any permanent employees of such headquarters.

15 TITLE II—DEPARTMENT OF THE INTERIOR

16 CENTRAL UTAH PROJECT

17 CENTRAL UTAH PROJECT COMPLETION ACCOUNT

18 For carrying out activities authorized by the Central
19 Utah Project Completion Act, \$27,154,000, to remain
20 available until expended, of which \$2,000,000 shall be de-
21 posited into the Utah Reclamation Mitigation and Con-
22 servation Account for use by the Utah Reclamation Miti-
23 gation and Conservation Commission. In addition, for nec-
24 essary expenses incurred in carrying out related respon-
25 sibilities of the Secretary of the Interior, \$1,550,000. For

1 fiscal year 2012, the Commission may use an amount not
2 to exceed \$1,500,000 for administrative expenses.

3 BUREAU OF RECLAMATION

4 The following appropriations shall be expended to
5 execute authorized functions of the Bureau of Reclama-
6 tion:

7 WATER AND RELATED RESOURCES

8 (INCLUDING TRANSFERS OF FUNDS)

9 For management, development, and restoration of
10 water and related natural resources and for related activi-
11 ties, including the operation, maintenance, and rehabilita-
12 tion of reclamation and other facilities, participation in
13 fulfilling related Federal responsibilities to Native Ameri-
14 cans, and related grants to, and cooperative and other
15 agreements with, State and local governments, federally
16 recognized Indian tribes, and others, \$822,300,000, to re-
17 main available until expended, of which \$10,698,000 shall
18 be available for transfer to the Upper Colorado River
19 Basin Fund and \$6,136,000 shall be available for transfer
20 to the Lower Colorado River Basin Development Fund;
21 of which such amounts as may be necessary may be ad-
22 vanced to the Colorado River Dam Fund; of which not
23 more than \$500,000 is for high priority projects which
24 shall be carried out by the Youth Conservation Corps, as
25 authorized by 16 U.S.C. 1706: *Provided*, That such trans-

1 fers may be increased or decreased within the overall ap-
2 propriation under this heading: *Provided further*, That of
3 the total appropriated, the amount for program activities
4 that can be financed by the Reclamation Fund or the Bu-
5 reau of Reclamation special fee account established by 16
6 U.S.C. 4601-6a(i) shall be derived from that Fund or ac-
7 count: *Provided further*, That funds contributed under 43
8 U.S.C. 395 are available until expended for the purposes
9 for which contributed: *Provided further*, That funds ad-
10 vanced under 43 U.S.C. 397a shall be credited to this ac-
11 count and are available until expended for the same pur-
12 poses as the sums appropriated under this heading: *Pro-*
13 *vided further*, That except as provided in section 201, the
14 amounts made available under this paragraph shall be ex-
15 pended as authorized by law for the programs, projects,
16 and activities specified in the text and table under this
17 heading in the report of the Committee on Appropriations
18 of the House of Representatives to accompany this Act.

19 CENTRAL VALLEY PROJECT RESTORATION FUND

20 For carrying out the programs, projects, plans, habi-
21 tat restoration, improvement, and acquisition provisions of
22 the Central Valley Project Improvement Act, \$53,068,000,
23 to be derived from such sums as may be collected in the
24 Central Valley Project Restoration Fund pursuant to sec-
25 tions 3407(d), 3404(c)(3), and 3405(f) of Public Law

1 102–575, to remain available until expended: *Provided*,
2 That the Bureau of Reclamation is directed to assess and
3 collect the full amount of the additional mitigation and
4 restoration payments authorized by section 3407(d) of
5 Public Law 102–575: *Provided further*, That none of the
6 funds made available under this heading may be used for
7 the acquisition or leasing of water for in-stream purposes
8 if the water is already committed to in-stream purposes
9 by a court adopted decree or order.

10 CALIFORNIA BAY-DELTA RESTORATION
11 (INCLUDING TRANSFERS OF FUNDS)

12 For carrying out activities authorized by the Water
13 Supply, Reliability, and Environmental Improvement Act,
14 consistent with plans to be approved by the Secretary of
15 the Interior, \$35,928,000, to remain available until ex-
16 pended, of which such amounts as may be necessary to
17 carry out such activities may be transferred to appropriate
18 accounts of other participating Federal agencies to carry
19 out authorized purposes: *Provided*, That funds appro-
20 priated herein may be used for the Federal share of the
21 costs of CALFED Program management: *Provided fur-*
22 *ther*, That the use of any funds provided to the California
23 Bay-Delta Authority for program-wide management and
24 oversight activities shall be subject to the approval of the
25 Secretary of the Interior: *Provided further*, That CALFED

1 implementation shall be carried out in a balanced manner
2 with clear performance measures demonstrating concur-
3 rent progress in achieving the goals and objectives of the
4 Program.

5 POLICY AND ADMINISTRATION

6 For necessary expenses of policy, administration, and
7 related functions in the Office of the Commissioner, the
8 Denver office, and offices in the five regions of the Bureau
9 of Reclamation, to remain available until expended,
10 \$60,000,000, to be derived from the Reclamation Fund
11 and be nonreimbursable as provided in 43 U.S.C. 377:
12 *Provided*, That no part of any other appropriation in this
13 Act shall be available for activities or functions budgeted
14 as policy and administration expenses.

15 ADMINISTRATIVE PROVISION

16 Appropriations for the Bureau of Reclamation shall
17 be available for purchase of not to exceed five passenger
18 motor vehicles, which are for replacement only.

19 GENERAL PROVISIONS, DEPARTMENT OF THE
20 INTERIOR

21 (INCLUDING RESCISSION OF FUNDS)

22 SEC. 201. (a) None of the funds provided in this title
23 shall be available for obligation or expenditure through a
24 reprogramming of funds that—

1 (1) creates or initiates a new program, project, or ac-
2 tivity;

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

4 (3) increases funds for any program, project, or activ-
5 ity for which funds have been denied or restricted by this
6 Act;

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

9 (5) transfers funds in excess of the following limits:

10 (A) 15 percent for any program, project, or ac-
11 tivity for which \$2,000,000 or more is available at
12 the beginning of the fiscal year; or

13 (B) \$300,000 for any program, project, or ac-
14 tivity for which less than \$2,000,000 is available at
15 the beginning of the fiscal year;

16 (6) transfers more than \$500,000 from either the Fa-
17 cilities Operation, Maintenance, and Rehabilitation cat-
18 egory or the Resources Management and Development
19 category to any program, project, or activity in the other
20 category; or

21 (7) transfers, when necessary to discharge legal obli-
22 gations of the Bureau of Reclamation, more than
23 \$5,000,000 to provide adequate funds for settled con-
24 tractor claims, increased contractor earnings due to accel-

1 erated rates of operations, and real estate deficiency judg-
2 ments.

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

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

9 (d) The Bureau of Reclamation shall submit reports
10 on a quarterly basis to the Committees on Appropriations
11 of the House of Representatives and the Senate detailing
12 all the funds reprogrammed between programs, projects,
13 activities, or categories of funding. The first quarterly re-
14 port shall be submitted not later than 60 days after the
15 date of enactment of this Act.

16 SEC. 202. (a) None of the funds appropriated or oth-
17 erwise made available by this Act may be used to deter-
18 mine the final point of discharge for the interceptor drain
19 for the San Luis Unit until development by the Secretary
20 of the Interior and the State of California of a plan, which
21 shall conform to the water quality standards of the State
22 of California as approved by the Administrator of the En-
23 vironmental Protection Agency, to minimize any detri-
24 mental effect of the San Luis drainage waters.

1 (b) The costs of the Kesterson Reservoir Cleanup
2 Program and the costs of the San Joaquin Valley Drain-
3 age Program shall be classified by the Secretary of the
4 Interior as reimbursable or nonreimbursable and collected
5 until fully repaid pursuant to the “Cleanup Program-Alt-
6 ernative Repayment Plan” and the “SJVDP-Alternative
7 Repayment Plan” described in the report entitled “Repay-
8 ment Report, Kesterson Reservoir Cleanup Program and
9 San Joaquin Valley Drainage Program, February 1995”,
10 prepared by the Department of the Interior, Bureau of
11 Reclamation. Any future obligations of funds by the
12 United States relating to, or providing for, drainage serv-
13 ice or drainage studies for the San Luis Unit shall be fully
14 reimbursable by San Luis Unit beneficiaries of such serv-
15 ice or studies pursuant to Federal reclamation law.

16 SEC. 203. Of the funds deposited in the San Joaquin
17 River Restoration Fund in accordance with subparagraphs
18 (A), (B) and (C) of section 10009(c)(1) of Public Law
19 111-11, all unobligated balances remaining from prior fis-
20 cal years are hereby permanently rescinded.

21 TITLE III—DEPARTMENT OF ENERGY

22 ENERGY PROGRAMS

23 ENERGY EFFICIENCY AND RENEWABLE ENERGY

24 For Department of Energy expenses including the
25 purchase, construction, and acquisition of plant and cap-

1 ital equipment, and other expenses necessary for energy
2 efficiency and renewable energy activities in carrying out
3 the purposes of the Department of Energy Organization
4 Act (42 U.S.C. 7101 et seq.), including the acquisition or
5 condemnation of any real property or any facility or for
6 plant or facility acquisition, construction, or expansion,
7 \$1,304,636,000, to remain available until expended: *Pro-*
8 *vided*, That for the purposes of allocating weatherization
9 assistance funds appropriated by this Act to States and
10 tribes, the Secretary of Energy may waive the allocation
11 formula established pursuant to section 414(a) of the En-
12 ergy Conservation and Production Act (42 U.S.C.
13 6864(a)).

14 ELECTRICITY DELIVERY AND ENERGY RELIABILITY

15 For Department of Energy expenses including the
16 purchase, construction, and acquisition of plant and cap-
17 ital equipment, and other expenses necessary for elec-
18 tricity delivery and energy reliability activities in carrying
19 out the purposes of the Department of Energy Organiza-
20 tion Act (42 U.S.C. 7101 et seq.), including the acquisi-
21 tion or condemnation of any real property or any facility
22 or for plant or facility acquisition, construction, or expan-
23 sion, \$139,496,000, to remain available until expended.

1 NUCLEAR ENERGY

2 For Department of Energy expenses including the
3 purchase, construction, and acquisition of plant and cap-
4 ital equipment, and other expenses necessary for nuclear
5 energy activities in carrying out the purposes of the De-
6 partment of Energy Organization Act (42 U.S.C. 7101 et
7 seq.), including the acquisition or condemnation of any
8 real property or any facility or for plant or facility acquisi-
9 tion, construction, or expansion, and the purchase of not
10 more than 10 buses, all for replacement only,
11 \$733,633,000, to remain available until expended.

12 FOSSIL ENERGY RESEARCH AND DEVELOPMENT

13 For necessary expenses in carrying out fossil energy
14 research and development activities, under the authority
15 of the Department of Energy Organization Act (Public
16 Law 95-91), including the acquisition of interest, includ-
17 ing defeasible and equitable interests in any real property
18 or any facility or for plant or facility acquisition or expan-
19 sion, and for conducting inquiries, technological investiga-
20 tions and research concerning the extraction, processing,
21 use, and disposal of mineral substances without objection-
22 able social and environmental costs (30 U.S.C. 3, 1602,
23 and 1603), \$476,993,000, to remain available until ex-
24 pended: *Provided*, That for all programs funded under
25 Fossil Energy appropriations in this Act or any other Act,

1 the Secretary may vest fee title or other property interests
2 acquired under projects in any entity, including the United
3 States.

4 NAVAL PETROLEUM AND OIL SHALE RESERVES

5 For expenses necessary to carry out naval petroleum
6 and oil shale reserve activities, \$14,909,000, to remain
7 available until expended: *Provided*, That, notwithstanding
8 any other provision of law, unobligated funds remaining
9 from prior years shall be available for all naval petroleum
10 and oil shale reserve activities.

11 STRATEGIC PETROLEUM RESERVE

12 For necessary expenses for Strategic Petroleum Re-
13 serve facility development and operations and program
14 management activities pursuant to the Energy Policy and
15 Conservation Act of 1975, as amended (42 U.S.C. 6201
16 et seq.), \$192,704,000, to remain available until expended.

17 SPR PETROLEUM ACCOUNT

18 Notwithstanding sections 161 and 167 of the Energy
19 Policy and Conservation Act (42 U.S.C. 6241, 6247), the
20 Secretary of Energy shall sell \$500,000,000 in petroleum
21 products from the Reserve not later than March 1, 2012,
22 and shall deposit any proceeds from such sales in the Gen-
23 eral Fund of the Treasury: *Provided*, That during fiscal
24 year 2012 and hereafter, the quantity of petroleum prod-
25 ucts sold from the Reserve under the authority of this Act

1 may only be replaced using the authority provided in para-
2 graph (a)(1) or (3) of section 160 of the Energy Policy
3 and Conservation Act (42 U.S.C. 6240(a)(1) or (3)): *Pro-*
4 *vided further*, That unobligated balances in this account
5 shall be available to cover the costs of any sale under this
6 Act.

7 NORTHEAST HOME HEATING OIL RESERVE

8 (INCLUDING RESCISSION OF FUNDS)

9 For necessary expenses for Northeast Home Heating
10 Oil Reserve storage, operation, and management activities
11 pursuant to the Energy Policy and Conservation Act,
12 \$10,119,000, to remain available until expended: *Pro-*
13 *vided*, That amounts net of the purchase of 1 million bar-
14 rels of petroleum distillates in fiscal year 2011; costs re-
15 lated to transportation, delivery, and storage; and sales
16 of petroleum distillate from the Reserve under section 182
17 of the Energy Policy and Conservation Act (42 U.S.C.
18 6250a) are hereby permanently rescinded: *Provided fur-*
19 *ther*, That notwithstanding section 181 of the Energy Pol-
20 icy and Conservation Act (42 U.S.C. 6250) , for fiscal year
21 2012 and hereafter, the Reserve shall contain no more
22 than 1 million barrels of petroleum distillate.

1 ENERGY INFORMATION ADMINISTRATION

2 For necessary expenses in carrying out the activities
3 of the Energy Information Administration, \$105,000,000,
4 to remain available until expended.

5 NON-DEFENSE ENVIRONMENTAL CLEANUP

6 For Department of Energy expenses, including the
7 purchase, construction, and acquisition of plant and cap-
8 ital equipment and other expenses necessary for non-de-
9 fense environmental cleanup activities in carrying out the
10 purposes of the Department of Energy Organization Act
11 (42 U.S.C. 7101 et seq.), including the acquisition or con-
12 demnation of any real property or any facility or for plant
13 or facility acquisition, construction, or expansion,
14 \$213,121,000, to remain available until expended.

15 URANIUM ENRICHMENT DECONTAMINATION AND

16 DECOMMISSIONING FUND

17 For necessary expenses in carrying out uranium en-
18 richment facility decontamination and decommissioning,
19 remedial actions, and other activities of title II of the
20 Atomic Energy Act of 1954, and title X, subtitle A, of
21 the Energy Policy Act of 1992, \$449,000,000, to be de-
22 rived from the Uranium Enrichment Decontamination and
23 Decommissioning Fund, and not more than \$150,000,000,
24 to be derived from the barter, transfer, or sale of uranium
25 authorized under section 3112 of the USEC Privatization

1 Act (42 U.S.C. 2297h-10) or section 314 of the Energy
2 and Water Development Appropriations Act, 2006 (Public
3 Law 109-103), to remain available until expended: *Pro-*
4 *vided*, That proceeds from such barter, transfer, or sale
5 of uranium in excess of such amount shall not be available
6 until appropriated.

7
8 SCIENCE

8 For Department of Energy expenses including the
9 purchase, construction, and acquisition of plant and cap-
10 ital equipment, and other expenses necessary for science
11 activities in carrying out the purposes of the Department
12 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
13 cluding the acquisition or condemnation of any real prop-
14 erty or facility or for plant or facility acquisition, construc-
15 tion, or expansion, and purchase of not more than 49 pas-
16 senger motor vehicles for replacement only, including one
17 ambulance and one bus, \$4,800,000,000, to remain avail-
18 able until expended.

19
20 NUCLEAR WASTE DISPOSAL

21 For nuclear waste disposal activities to carry out the
22 purposes of the Nuclear Waste Policy Act of 1982 (Public
23 Law 97-425), \$25,000,000, to remain available until ex-
pended, and to be derived from the Nuclear Waste Fund.

1 1702(h) of the Energy Policy Act of 2005 shall be credited
2 as offsetting collections to this account to cover adminis-
3 trative expenses and shall remain available until expended,
4 so as to result in a final fiscal year 2012 appropriations
5 from the general fund estimated at not more than \$0: *Pro-*
6 *vided further*, That fees collected under section 1702(h)
7 in excess of the amount appropriated for administrative
8 expenses shall not be available until appropriated: *Pro-*
9 *vided further*, That for amounts collected pursuant to sec-
10 tion 1702(b)(2) of the Energy Policy Act of 2005, the
11 source of such payment received from borrowers is not a
12 loan or other debt obligation that is guaranteed by the
13 Federal Government: *Provided further*, That none of the
14 loan guarantee authority made available in this paragraph
15 shall be available for commitments to guarantee loans for
16 any projects where funds, personnel, or property (tangible
17 or intangible) of any Federal agency, instrumentality, per-
18 sonnel or affiliated entity are expected to be used (directly
19 or indirectly) through acquisitions, contracts, demonstra-
20 tions, exchanges, grants, incentives, leases, procurements,
21 sales, other transaction authority, or other arrangements,
22 to support the project or to obtain goods or services from
23 the project: *Provided further*, That the previous proviso
24 shall not be interpreted as precluding the use of the loan
25 guarantee authority in this paragraph for commitments

1 to guarantee loans for projects as a result of such projects
2 benefiting from (1) otherwise allowable Federal income
3 tax benefits; (2) being located on Federal land pursuant
4 to a lease or right-of-way agreement for which all consider-
5 ation for all uses is (A) paid exclusively in cash, (B) depos-
6 ited in the Treasury as offsetting receipts, and (C) equal
7 to the fair market value as determined by the head of the
8 relevant Federal agency; (3) Federal insurance programs,
9 including under section 170 of the Atomic Energy Act of
10 1954 (42 U.S.C. 2210; commonly known as the “Price-
11 Anderson Act”); or (4) for electric generation projects, use
12 of transmission facilities owned or operated by a Federal
13 Power Marketing Administration or the Tennessee Valley
14 Authority that have been authorized, approved, and fi-
15 nanced independent of the project receiving the guarantee:
16 *Provided further*, That none of the loan guarantee author-
17 ity made available in this paragraph shall be available for
18 any project unless the Director of the Office of Manage-
19 ment and Budget has certified in advance in writing that
20 the loan guarantee and the project comply with the provi-
21 sions under this paragraph.

1 of 31 U.S.C. 3302: *Provided further*, That the sum herein
2 appropriated shall be reduced by the amount of miscella-
3 neous revenues received during 2012, and any related ap-
4 propriated receipt account balances remaining from prior
5 years' miscellaneous revenues, so as to result in a final
6 fiscal year 2012 appropriation from the general fund esti-
7 mated at not more than \$109,631,000.

8 OFFICE OF THE INSPECTOR GENERAL

9 For necessary expenses of the Office of the Inspector
10 General in carrying out the provisions of the Inspector
11 General Act of 1978, as amended, \$41,774,000, to remain
12 available until expended.

13 ATOMIC ENERGY DEFENSE ACTIVITIES

14 NATIONAL NUCLEAR SECURITY

15 ADMINISTRATION

16 WEAPONS ACTIVITIES

17 (INCLUDING RESCISSION OF FUNDS)

18 For Department of Energy expenses, including the
19 purchase, construction, and acquisition of plant and cap-
20 ital equipment and other incidental expenses necessary for
21 atomic energy defense weapons activities in carrying out
22 the purposes of the Department of Energy Organization
23 Act (42 U.S.C. 7101 et seq.), including the acquisition or
24 condemnation of any real property or any facility or for
25 plant or facility acquisition, construction, or expansion,

1 the purchase of not to exceed one ambulance and one air-
2 craft; \$7,131,993,000, to remain available until expended:
3 *Provided*, That of such amount not more than
4 \$139,281,000 may be made available for the B-61 Life
5 Extension Program until the Administrator for Nuclear
6 Security submits to the Committees on Appropriations of
7 the House of Representatives and the Senate the outcome
8 of its Phase 6.2a design definition and cost study: *Pro-*
9 *vided further*, That of the unobligated balances available
10 under this heading, \$40,332,000 are hereby rescinded:
11 *Provided further*, That no amounts may be rescinded from
12 amounts that were designated by the Congress as an
13 emergency requirement pursuant to the Concurrent Reso-
14 lution on the Budget or the Balanced Budget and Emer-
15 gency Deficit Control Act of 1985.

16 DEFENSE NUCLEAR NONPROLIFERATION
17 (INCLUDING RESCISSION OF FUNDS)

18 For Department of Energy expenses, including the
19 purchase, construction, and acquisition of plant and cap-
20 ital equipment and other incidental expenses necessary for
21 defense nuclear nonproliferation activities, in carrying out
22 the purposes of the Department of Energy Organization
23 Act (42 U.S.C. 7101 et seq.), including the acquisition or
24 condemnation of any real property or any facility or for
25 plant or facility acquisition, construction, or expansion,

1 and the purchase of not to exceed one passenger motor
2 vehicle for replacement only, \$2,086,770,000, to remain
3 available until expended: *Provided*, That of the unobli-
4 gated balances available under this heading, \$30,000,000
5 are hereby rescinded; *Provided further*, That no amounts
6 may be rescinded from amounts that were designated by
7 the Congress as an emergency requirement pursuant to
8 the Concurrent Resolution on the Budget or the Balanced
9 Budget and Emergency Deficit Control Act of 1985.

10

NAVAL REACTORS

11 For Department of Energy expenses necessary for
12 naval reactors activities to carry out the Department of
13 Energy Organization Act (42 U.S.C. 7101 et seq.), includ-
14 ing the acquisition (by purchase, condemnation, construc-
15 tion, or otherwise) of real property, plant, and capital
16 equipment, facilities, and facility expansion,
17 \$1,030,600,000, to remain available until expended.

18

OFFICE OF THE ADMINISTRATOR

19 For necessary expenses of the Office of the Adminis-
20 trator in the National Nuclear Security Administration,
21 including official reception and representation expenses
22 not to exceed \$12,000, \$420,000,000, to remain available
23 until expended.

1 ENVIRONMENTAL AND OTHER DEFENSE
2 ACTIVITIES

3 DEFENSE ENVIRONMENTAL CLEANUP

4 For Department of Energy expenses, including the
5 purchase, construction, and acquisition of plant and cap-
6 ital equipment and other expenses necessary for atomic
7 energy defense environmental cleanup activities in car-
8 rying out the purposes of the Department of Energy Orga-
9 nization Act (42 U.S.C. 7101 et seq.), including the acqui-
10 sition or condemnation of any real property or any facility
11 or for plant or facility acquisition, construction, or expan-
12 sion, and the purchase of not to exceed one ambulances
13 and one fire truck for replacement only, \$4,937,619,000,
14 to remain available until expended.

15 OTHER DEFENSE ACTIVITIES

16 For Department of Energy expenses, including the
17 purchase, construction, and acquisition of plant and cap-
18 ital equipment and other expenses, necessary for atomic
19 energy defense, other defense activities, and classified ac-
20 tivities, in carrying out the purposes of the Department
21 of Energy Organization Act (42 U.S.C. 7101 et seq.), in-
22 cluding the acquisition or condemnation of any real prop-
23 erty or any facility or for plant or facility acquisition, con-
24 struction, or expansion, and the purchase of not to exceed

1 10 passenger motor vehicles for replacement only,
2 \$814,000,000, to remain available until expended.

3 POWER MARKETING ADMINISTRATIONS

4 BONNEVILLE POWER ADMINISTRATION FUND

5 Expenditures from the Bonneville Power Administra-
6 tion Fund, established pursuant to Public Law 93-454,
7 are approved for the Kootenai River Native Fish Con-
8 servation Aquaculture Program, Lolo Creek Permanent
9 Weir Facility, and Improving Anadromous Fish produc-
10 tion on the Warm Springs Reservation, and, in addition,
11 for official reception and representation expenses in an
12 amount not to exceed \$3,000. During fiscal year 2012,
13 no new direct loan obligations may be made.

14 OPERATION AND MAINTENANCE, SOUTHEASTERN POWER
15 ADMINISTRATION

16 For necessary expenses of operation and maintenance
17 of power transmission facilities and of marketing electric
18 power and energy, including transmission wheeling and
19 ancillary services pursuant to section 5 of the Flood Con-
20 trol Act of 1944 (16 U.S.C. 825s), as applied to the south-
21 eastern power area, \$8,428,000, to remain available until
22 expended: *Provided*, That notwithstanding 31 U.S.C. 3302
23 and section 5 of the Flood Control Act of 1944, up to
24 \$8,428,000 collected by the Southeastern Power Adminis-
25 tration from the sale of power and related services shall

1 be credited to this account as discretionary offsetting col-
2 lections, to remain available until expended for the sole
3 purpose of funding the annual expenses of the South-
4 eastern Power Administration: *Provided further*, That the
5 sum herein appropriated for annual expenses shall be re-
6 duced as collections are received during the fiscal year so
7 as to result in a final fiscal year 2012 appropriation esti-
8 mated at not more than \$0: *Provided further*, That not-
9 withstanding 31 U.S.C. 3302, up to \$100,162,000 col-
10 lected by the Southeastern Power Administration pursu-
11 ant to the Flood Control Act of 1944 to recover purchase
12 power and wheeling expenses shall be credited to this ac-
13 count as offsetting collections, to remain available until
14 expended for the sole purpose of making purchase power
15 and wheeling expenditures: *Provided further*, That for pur-
16 poses of this appropriation, annual expenses means ex-
17 penditures that are generally recovered in the same year
18 that they are incurred (excluding purchase power and
19 wheeling expenses).

20 OPERATION AND MAINTENANCE, SOUTHWESTERN
21 POWER ADMINISTRATION

22 For necessary expenses of operation and maintenance
23 of power transmission facilities and of marketing electric
24 power and energy, for construction and acquisition of
25 transmission lines, substations and appurtenant facilities,

1 and for administrative expenses, including official recep-
2 tion and representation expenses in an amount not to ex-
3 ceed \$1,500 in carrying out section 5 of the Flood Control
4 Act of 1944 (16 U.S.C. 825s), as applied to the South-
5 western Power Administration, \$45,010,000, to remain
6 available until expended: *Provided*, That notwithstanding
7 31 U.S.C. 3302 and section 5 of the Flood Control Act
8 of 1944 (16 U.S.C. 825s), up to \$33,118,000 collected
9 by the Southwestern Power Administration from the sale
10 of power and related services shall be credited to this ac-
11 count as discretionary offsetting collections, to remain
12 available until expended, for the sole purpose of funding
13 the annual expenses of the Southwestern Power Adminis-
14 tration: *Provided further*, That the sum herein appro-
15 priated for annual expenses shall be reduced as collections
16 are received during the fiscal year so as to result in a final
17 fiscal year 2012 appropriation estimated at not more than
18 \$11,892,000: *Provided further*, That, notwithstanding 31
19 U.S.C. 3302, up to \$40,000,000 collected by the South-
20 western Power Administration pursuant to the Flood Con-
21 trol Act of 1944 to recover purchase power and wheeling
22 expenses shall be credited to this account as offsetting col-
23 lections, to remain available until expended for the sole
24 purpose of making purchase power and wheeling expendi-
25 tures: *Provided further*, That for purposes of this appro-

1 priation, annual expenses means expenditures that are
2 generally recovered in the same year that they are in-
3 curred (excluding purchase power and wheeling expenses).

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

7 For carrying out the functions authorized by title III,
8 section 302(a)(1)(E) of the Act of August 4, 1977 (42
9 U.S.C. 7152), and other related activities including con-
10 servation and renewable resources programs as author-
11 ized, including official reception and representation ex-
12 penses in an amount not to exceed \$1,500; \$285,900,000,
13 to remain available until expended, of which \$278,856,000
14 shall be derived from the Department of the Interior Rec-
15 lamation Fund: *Provided*, That notwithstanding 31 U.S.C.
16 3302, section 5 of the Flood Control Act of 1944 (16
17 U.S.C. 825s), and section 1 of the Interior Department
18 Appropriation Act, 1939 (43 U.S.C. 392a), up to
19 \$189,932,000 collected by the Western Area Power Ad-
20 ministration from the sale of power and related services
21 shall be credited to this account as discretionary offsetting
22 collections, to remain available until expended, for the sole
23 purpose of funding the annual expenses of the Western
24 Area Power Administration: *Provided further*, That the
25 sum herein appropriated for annual expenses shall be re-

1 duced as collections are received during the fiscal year so
2 as to result in a final fiscal year 2012 appropriation esti-
3 mated at not more than \$95,968,000, of which
4 \$88,924,000 is derived from the Reclamation Fund: *Pro-*
5 *vided further*, That of the amount herein appropriated, not
6 more than \$3,375,000 is for deposit into the Utah Rec-
7 lamation Mitigation and Conservation Account pursuant
8 to title IV of the Reclamation Projects Authorization and
9 Adjustment Act of 1992: *Provided further*, That notwith-
10 standing 31 U.S.C. 3302, up to \$306,541,000 collected
11 by the Western Area Power Administration pursuant to
12 the Flood Control Act of 1944 and the Reclamation
13 Project Act of 1939 to recover purchase power and wheel-
14 ing expenses shall be credited to this account as offsetting
15 collections, to remain available until expended for the sole
16 purpose of making purchase power and wheeling expendi-
17 tures: *Provided further*, That for purposes of this appro-
18 priation, annual expenses means expenditures that are
19 generally recovered in the same year that they are in-
20 curred (excluding purchase power and wheeling expenses).

21 FALCON AND AMISTAD OPERATING AND MAINTENANCE

22 FUND

23 For operation, maintenance, and emergency costs for
24 the hydroelectric facilities at the Falcon and Amistad
25 Dams, \$4,169,000, to remain available until expended,

1 and to be derived from the Falcon and Amistad Operating
2 and Maintenance Fund of the Western Area Power Ad-
3 ministration, as provided in section 2 of the Act of June
4 18, 1954 (68 Stat. 255) as amended: *Provided*, That not-
5 withstanding the provisions of that Act and of 31 U.S.C.
6 3302, up to \$3,949,000 collected by the Western Area
7 Power Administration from the sale of power and related
8 services from the Falcon and Amistad Dams shall be cred-
9 ited to this account as discretionary offsetting collections,
10 to remain available until expended for the sole purpose
11 of funding the annual expenses of the hydroelectric facili-
12 ties of these Dams and associated Western Area Power
13 Administration activities: *Provided further*, That the sum
14 herein appropriated for annual expenses shall be reduced
15 as collections are received during the fiscal year so as to
16 result in a final fiscal year 2012 appropriation estimated
17 at not more than \$220,000: *Provided further*, That for
18 purposes of this appropriation, annual expenses means ex-
19 penditures that are generally recovered in the same year
20 that they are incurred.

21 FEDERAL ENERGY REGULATORY COMMISSION

22 SALARIES AND EXPENSES

23 For necessary expenses of the Federal Energy Regu-
24 latory Commission to carry out the provisions of the De-
25 partment of Energy Organization Act (42 U.S.C. 7101 et

1 tivity if the program, project, or activity has not been
2 funded by Congress.

3 (b)(1) Except as provided in paragraph (2), the De-
4 partment of Energy may not, with respect to any program,
5 project, or activity that uses budget authority made avail-
6 able in this title under the heading “Department of En-
7 ergy—Energy Programs”, enter into a contract, award a
8 grant, or enter into a cooperative agreement that obligates
9 the Government in excess of the budget authority available
10 under such heading for such purpose, or that is properly
11 chargeable to budget authority of a future fiscal year be-
12 fore such budget authority is available, regardless of
13 whether the contract, grant, or cooperative agreement in-
14 cludes a clause conditioning the Government’s obligation
15 on the availability of such budget authority.

16 (2) Paragraph (1) shall not apply with respect to
17 major capital projects.

18 (c) Except as provided in this section, the amounts
19 made available by this Act for the Department of Energy
20 shall be expended as authorized by law for the projects
21 and activities specified in the text and the “Bill” column
22 in the “Comparative Statement of New Budget
23 (Obligational) Authority for 2011 and Budget Requests
24 and Amounts Recommended in the Bill for 2012” included
25 under the heading “Title III—Department of Energy” in

1 the report of the Committee on Appropriations of the
2 House of Representatives to accompany this Act.

3 (d) None of the funds provided in this title shall be
4 available for obligation or expenditure through a re-
5 programming of funds that—

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

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

9 (3) increases funds or personnel for any pro-
10 gram, project, or activity for which funds are denied
11 or restricted by this Act;

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

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

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

21 (e) The Secretary of Energy and the Administrator
22 for Nuclear Security may jointly waive the restrictions
23 under subsection (a) and subsection (d) on a case-by-case
24 basis by certifying to the Committees on Appropriations

1 of the House of Representatives and the Senate that it
2 is in the national security interest to do so.

3 SEC. 302. None of the funds made available in this
4 title may be used—

5 (1) to augment the funds made available for ob-
6 ligation by this Act for severance payments and
7 other benefits and community assistance grants
8 under section 4604 of the Atomic Energy Defense
9 Act (50 U.S.C. 2704) unless the Department of En-
10 ergy submits a reprogramming request to the appro-
11 priate congressional committees; or

12 (2) to provide enhanced severance payments or
13 other benefits for employees of the Department of
14 Energy under section 4604; or

15 (3) develop or implement a workforce restruc-
16 turing plan that covers employees of the Department
17 of Energy.

18 SEC. 303. The unexpended balances of prior appro-
19 priations provided for activities in this Act may be avail-
20 able to the same appropriation accounts for such activities
21 established pursuant to this title. Available balances may
22 be merged with funds in the applicable established ac-
23 counts and thereafter may be accounted for as one fund
24 for the same time period as originally enacted.

1 SEC. 304. None of the funds in this or any other Act
2 for the Administrator of the Bonneville Power Administra-
3 tion may be used to enter into any agreement to perform
4 energy efficiency services outside the legally defined Bon-
5 neville service territory, with the exception of services pro-
6 vided internationally, including services provided on a re-
7 imburseable basis, unless the Administrator certifies in ad-
8 vance that such services are not available from private sec-
9 tor businesses.

10 SEC. 305. When the Department of Energy makes
11 a user facility available to universities or other potential
12 users, or seeks input from universities or other potential
13 users regarding significant characteristics or equipment in
14 a user facility or a proposed user facility, the Department
15 shall ensure broad public notice of such availability or
16 such need for input to universities and other potential
17 users. When the Department of Energy considers the par-
18 ticipation of a university or other potential user as a for-
19 mal partner in the establishment or operation of a user
20 facility, the Department shall employ full and open com-
21 petition in selecting such a partner. For purposes of this
22 section, the term “user facility” includes, but is not lim-
23 ited to: (1) a user facility as described in section
24 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C.
25 13503(a)(2)); (2) a National Nuclear Security Adminis-

1 tration Defense Programs Technology Deployment Cen-
2 ter/User Facility; and (3) any other Departmental facility
3 designated by the Department as a user facility.

4 SEC. 306. Funds appropriated by this or any other
5 Act, or made available by the transfer of funds in this
6 Act, for intelligence activities are deemed to be specifically
7 authorized by the Congress for purposes of section 504
8 of the National Security Act of 1947 (50 U.S.C. 414) dur-
9 ing fiscal year 2012 until the enactment of the Intelligence
10 Authorization Act for Fiscal Year 2012.

11 SEC. 307. (a) In any fiscal year in which the Sec-
12 retary of Energy determines that additional funds are
13 needed to reimburse the costs of defined benefit pension
14 plans for contractor employees, the Secretary may transfer
15 not more than 1 percent of an appropriation made avail-
16 able in this or any subsequent Energy and Water Develop-
17 ment Appropriations Act to any other appropriation made
18 available to the Secretary by such Act for such reimburse-
19 ment.

20 (b) Where the Secretary recovers the costs of defined
21 benefit pension plans for contractor employees through
22 charges for the indirect costs of research and activities at
23 facilities of the Department of Energy, if the indirect costs
24 attributable to defined benefit pension plan costs in a fis-
25 cal year are more than charges in fiscal year 2008, the

1 Secretary shall carry out a transfer of funds under this
2 section.

3 (c) In carrying out a transfer under this section, the
4 Secretary shall use each appropriation made available to
5 the Department in that fiscal year as a source for the
6 transfer, and shall reduce each appropriation by an equal
7 percentage, except that appropriations for which the Sec-
8 retary determines there exists a need for additional funds
9 for pension plan costs in that fiscal year, as well as appro-
10 priations made available for the Power Marketing Admin-
11 istrations, the loan guarantee program under title XVII
12 of the Energy Policy Act of 2005, and the Federal Energy
13 Regulatory Commission, shall not be subject to this re-
14 quirement.

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

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

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

5 SEC. 308. None of the funds made available in this
6 title shall be used for the construction of facilities classi-
7 fied as high-hazard nuclear facilities under 10 CFR Part
8 830 unless independent oversight is conducted by the Of-
9 fice of Health, Safety, and Security to ensure the project
10 is in compliance with nuclear safety requirements.

11 SEC. 309. Plant or construction projects for which
12 amounts are made available under this and subsequent ap-
13 propriation Acts with an estimated cost of less than
14 \$10,000,000 are considered for purposes of section 4703
15 of the Atomic Energy Defense Act (50 U.S.C. 2743) as
16 a plant project for which the approved total estimated cost
17 does not exceed the minor construction threshold and for
18 purposes of section 4704(d) of such Act (50 U.S.C.
19 2744(d)) as a construction project with an estimated cost
20 of less than a minor construction threshold.

21 SEC. 310. None of the funds made available in this
22 title may be used to approve critical decision-2 or critical
23 decision-3 under Department of Energy Order 413.3B, or
24 any successive departmental guidance, for construction
25 projects where the total project cost exceeds

1 \$100,000,000, until a separate independent cost estimate
2 has been developed for the project for that critical deci-
3 sion.

4 SEC. 311. None of the funds made available in this
5 title may be used to make a grant allocation, discretionary
6 grant award, discretionary contract award, or Other
7 Transaction Agreement, or to issue a letter of intent, to-
8 taling in excess of \$1,000,000, or to announce publicly the
9 intention to make such an allocation, award, or Agree-
10 ment, or to issue such a letter, including a contract cov-
11 ered by the Federal Acquisition Regulation, unless the
12 Secretary of Energy notifies the Committees on Appro-
13 priations of the Senate and the House of Representatives
14 at least 3 full business days in advance of making such
15 an allocation, award, or Agreement, or issuing such a let-
16 ter: *Provided*, That if the Secretary of Energy determines
17 that compliance with this section would pose a substantial
18 risk to human life, health, or safety, an allocation, award,
19 or Agreement may be made, or a letter may be issued,
20 without advance notification, and the Secretary shall no-
21 tify the Committees on Appropriations of the Senate and
22 the House of Representatives not later than 5 full business
23 days after the date on which such an allocation, award,
24 or Agreement is made or letter issued.

1 SEC. 312. None of the funds made available by this
2 title may be used to make a final or conditional loan guar-
3 antee award unless the Secretary of Energy provides noti-
4 fication of the award, including the proposed subsidy cost,
5 to the Committees on Appropriations of the Senate and
6 the House of Representatives at least three full business
7 days in advance of such award.

8 SEC. 313. None of the funds included in this title
9 for the Department of Energy shall be made available to
10 initiate, administer, promulgate, or enforce any “signifi-
11 cant regulatory action” as defined by Executive Order
12 12866.

13 TITLE IV—INDEPENDENT AGENCIES

14 APPALACHIAN REGIONAL COMMISSION

15 For expenses necessary to carry out the programs au-
16 thorized by the Appalachian Regional Development Act of
17 1965, for necessary expenses for the Federal Co-Chairman
18 and the Alternate on the Appalachian Regional Commis-
19 sion, for payment of the Federal share of the administra-
20 tive expenses of the Commission, including services as au-
21 thorized by 5 U.S.C. 3109, and hire of passenger motor
22 vehicles, \$68,400,000, to remain available until expended.

1 DEFENSE NUCLEAR FACILITIES SAFETY BOARD

2 SALARIES AND EXPENSES

3 For necessary expenses of the Defense Nuclear Fa-
4 cilities Safety Board in carrying out activities authorized
5 by the Atomic Energy Act of 1954, as amended by Public
6 Law 100-456, section 1441, \$29,130,000, to remain
7 available until expended.

8 DELTA REGIONAL AUTHORITY

9 SALARIES AND EXPENSES

10 For necessary expenses of the Delta Regional Author-
11 ity and to carry out its activities, as authorized by the
12 Delta Regional Authority Act of 2000, as amended, not-
13 withstanding sections 382C(b)(2), 382F(d), 382M, and
14 382N of said Act, \$11,700,000, to remain available until
15 expended.

16 DENALI COMMISSION

17 For expenses of the Denali Commission including the
18 purchase, construction, and acquisition of plant and cap-
19 ital equipment as necessary and other expenses,
20 \$10,700,000, to remain available until expended, notwith-
21 standing the limitations contained in section 306(g) of the
22 Denali Commission Act of 1998 (title III of division C of
23 Public Law 105-277): *Provided*, That funds shall be avail-
24 able for construction projects in an amount not to exceed
25 80 percent of total project cost for distressed communities,

1 as defined in the subsection (c) added to section 307 of
2 such Act by section 701 of Title VII of the provisions of
3 H.R. 3424 (106th Congress) enacted into law in section
4 1000(a)(4) of Public Law 106–113 (113 STAT. 1501A-
5 280), and an amount not to exceed 50 percent for non-
6 distressed communities.

7 NORTHERN BORDER REGIONAL COMMISSION

8 For necessary expenses of the Northern Border Re-
9 gional Commission in carrying out activities authorized by
10 subtitle V of title 40, United States Code, \$1,350,000, to
11 remain available until expended: *Provided*, That such
12 amounts shall be available for administrative expenses,
13 notwithstanding section 15751(b) of title 40, United
14 States Code.

15 SOUTHEAST CRESCENT REGIONAL COMMISSION

16 For necessary expenses of the Southeast Crescent Re-
17 gional Commission in carrying out activities authorized by
18 subtitle V of title 40, United States Code, \$250,000, to
19 remain available until expended.

20 NUCLEAR REGULATORY COMMISSION

21 SALARIES AND EXPENSES

22 For necessary expenses of the Nuclear Regulatory
23 Commission in carrying out the purposes of the Energy
24 Reorganization Act of 1974 and the Atomic Energy Act
25 of 1954, including official representation expenses (not to

1 exceed \$25,000), \$1,027,240,000, to remain available
2 until expended: *Provided*, That of the amount appro-
3 priated herein, not more than \$7,500,000 may be made
4 available for salaries and other support costs for the Office
5 of the Commission: *Provided*, That of the amount appro-
6 priated herein, \$10,000,000 shall be used to continue the
7 Yucca Mountain license application, to be derived from the
8 Nuclear Waste Fund: *Provided further*, That revenues
9 from licensing fees, inspection services, and other services
10 and collections estimated at \$890,713,000 in fiscal year
11 2012 shall be retained and used for necessary salaries and
12 expenses in this account, notwithstanding 31 U.S.C. 3302,
13 and shall remain available until expended: *Provided fur-*
14 *ther*, That the sum herein appropriated shall be reduced
15 by the amount of revenues received during fiscal year
16 2012 so as to result in a final fiscal year 2012 appropria-
17 tion estimated at not more than \$136,527,000: *Provided*
18 *further*, That of the amounts appropriated under this
19 heading, \$10,000,000 shall be for university research and
20 development in areas relevant to their respective organiza-
21 tion's mission, and \$5,000,000 shall be for a Nuclear
22 Science and Engineering Grant Program that will support
23 multiyear projects that do not align with programmatic
24 missions but are critical to maintaining the discipline of
25 nuclear science and engineering.

1 OFFICE OF INSPECTOR GENERAL

2 For necessary expenses of the Office of Inspector
3 General in carrying out the provisions of the Inspector
4 General Act of 1978, \$10,860,000, to remain available
5 until expended: *Provided*, That revenues from licensing
6 fees, inspection services, and other services and collections
7 estimated at \$9,774,000 in fiscal year 2012 shall be re-
8 tained and be available until expended, for necessary sala-
9 ries and expenses in this account, notwithstanding section
10 3302 of title 31, United States Code: *Provided further*,
11 That the sum herein appropriated shall be reduced by the
12 amount of revenues received during fiscal year 2012 so
13 as to result in a final fiscal year 2012 appropriation esti-
14 mated at not more than \$1,086,000.

15 NUCLEAR WASTE TECHNICAL REVIEW BOARD

16 SALARIES AND EXPENSES

17 For necessary expenses of the Nuclear Waste Tech-
18 nical Review Board, as authorized by section 5051 of Pub-
19 lic Law 100-203, \$3,400,000 to be derived from the Nu-
20 clear Waste Fund, and to remain available until expended.

21 OFFICE OF THE FEDERAL COORDINATOR FOR ALASKA

22 NATURAL GAS TRANSPORTATION PROJECTS

23 For necessary expenses for the Office of the Federal
24 Coordinator for Alaska Natural Gas Transportation
25 Projects pursuant to the Alaska Natural Gas Pipeline Act

1 of 2004, \$4,032,000: *Provided*, That any fees, charges, or
2 commissions received pursuant to section 802 of Public
3 Law 110–140 in fiscal year 2012 in excess of \$4,683,000
4 shall not be available for obligation until appropriated in
5 a subsequent Act of Congress.

6 GENERAL PROVISION, INDEPENDENT

7 AGENCIES

8 SEC. 401. (a) None of the funds provided in this title
9 for the Nuclear Regulatory Commission, “Salaries and
10 Expenses”, shall be available for obligation or expenditure
11 through a reprogramming of funds that —

12 (1) creates or initiates a new program, project, or ac-
13 tivity;

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

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

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

20 (b) The Chairman of the Nuclear Regulatory Com-
21 mission may not terminate any project, program, or activ-
22 ity without the approval of a majority vote of the Commis-
23 sioners of the Nuclear Regulatory Commission approving
24 such action.

1 (c) The Nuclear Regulatory Commission may waive
2 the restriction on reprogramming under subsection (a) on
3 a case-by-case basis by certifying to the Committees on
4 Appropriations of the House of Representatives and the
5 Senate that such action is required to address national
6 security or imminent risks to public safety. Each such
7 waiver certification shall include a letter from the Chair-
8 man of the Commission that a majority of Commissioners
9 of the Nuclear Regulatory Commission have voted and ap-
10 proved the reprogramming waiver certification.

11 (d) Except as provided in this section, the amounts
12 made available for “Nuclear Regulatory Commission, Sal-
13 aries and Expenses” shall be expended as authorized by
14 law for the projects and activities specified in the text and
15 table under that heading in the report of the Committee
16 on Appropriations of the House of Representatives to ac-
17 company this Act.

18 TITLE V—GENERAL PROVISIONS

19 SEC. 501. None of the funds appropriated by this Act
20 may be used in any way, directly or indirectly, to influence
21 congressional action on any legislation or appropriation
22 matters pending before Congress, other than to commu-
23 nicate to Members of Congress as described in 18 U.S.C.
24 1913.

1 SEC. 502. None of the funds made available in this
2 Act may be transferred to any department, agency, or in-
3 strumentality of the United States Government, except
4 pursuant to a transfer made by, or transfer authority pro-
5 vided, in this Act or any other appropriation Act.

6 SEC. 503. None of the funds appropriated or other-
7 wise made available by this Act may be obligated by any
8 covered executive agency in contravention of the certifi-
9 cation requirement of section 6(b) of the Iran Sanctions
10 Act of 1996, as included in the revisions to the Federal
11 Acquisition Regulation pursuant to such section.

12 SEC. 504. The requirements of subchapter IV of
13 chapter 31 of title 40, United States Code, commonly re-
14 ferred to as the “Davis-Bacon Act”, shall not apply to
15 funds appropriated by this Act. In addition, the require-
16 ments of section 351(a) of title 41, United States Code,
17 commonly known as the “McNamara-O’Hara Service Con-
18 tract Act”, shall not apply to funds appropriated by this
19 Act.

20 SEC. 505. The amount by which the applicable alloca-
21 tion of new budget authority made by the Committee on
22 Appropriations of the House of Representatives under sec-
23 tion 302(b) of the Congressional Budget Act of 1974 ex-
24 ceeds the amount of proposed new budget authority is \$0.

1 SEC. 506. None of the funds made available in this
2 Act may be used to conduct closure of adjudicatory func-
3 tions, technical review, or support activities associated
4 with the Yucca Mountain geologic repository license appli-
5 cation until the Nuclear Regulatory Commission reverses
6 ASLB decision LBP-10-11, or for actions that irrevocably
7 remove the possibility that Yucca Mountain may be a re-
8 pository option in the future.

9 This Act may be cited as the “Energy and Water De-
10 velopment and Related Agencies Appropriations Act,
11 2012”.

[FULL COMMITTEE PRINT]

Union Calendar No. _____

112TH CONGRESS
1ST Session

H. R. _____

[Report No. 112-____]

A BILL

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

, 2011

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed