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H. R. 3183

One Hundred Eleventh Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday, the sixth day of January, two thousand and nine

An Act

Making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for energy and water development and related agencies for the fiscal year ending September 30, 2010, and for other purposes, namely:

TITLE I

CORPS OF ENGINEERS—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related efforts.

INVESTIGATIONS

For expenses necessary where authorized by law for the collection and study of basic information pertaining to river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related needs; for surveys and detailed studies, and plans and specifications of proposed river and harbor, flood and storm damage reduction, shore protection, and aquatic ecosystem restoration projects and related efforts prior to construction; for restudy of authorized projects; and for miscellaneous investigations and, when authorized by law, surveys and detailed studies, and plans and specifications of projects prior to construction, $160,000,000, to remain available until expended.

CONSTRUCTION

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the construction of river and harbor, flood and storm damage reduction, shore protection, aquatic ecosystem restoration, and related projects authorized by law; for

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conducting detailed studies, and plans and specifications, of such projects (including those involving participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such detailed studies, and plans and specifications, shall not constitute a commitment of the Government to construction); $2,031,000,000, 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 to cover one-half of the costs of construction, replacement, rehabilitation, and expansion of inland waterways projects (including only Chickamauga Lock, Tennessee; Kentucky Lock and Dam, Tennessee River, Kentucky; Lock and Dams 2, 3, and 4 Monongahela River, Pennsylvania; Markland Locks and Dam, Kentucky and Indiana; Olmsted Lock and Dam, Illinois and Kentucky; and Emsworth Locks and Dam, Ohio River, Pennsylvania) shall be derived from the Inland Waterways Trust Fund: *Provided*, That $1,500,000 of the funds appropriated under this heading in title I of division C of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 601–609) is transferred to the Investigations account and, in addition to funds appropriated by this Act, applied toward the cost of carrying out the Seven Oaks Water Conservation Study, California: *Provided further*, That the Chief of Engineers is directed to use $12,594,000 of the funds appropriated herein for the Dallas Floodway Extension, Texas, project, including the Cadillac Heights feature, generally in accordance with the Chief of Engineers report dated December 7, 1999: *Provided further*, That the Chief of Engineers is directed to use $1,417,000 of funds available for the Greenbrier Basin, Marlinton, West Virginia, Local Protection Project to continue engineering and design efforts, execute a project partnership agreement, and initiate construction of the project substantially in accordance with Alternative 1 as described in the Corps of Engineers Final Detailed Project Report and Environmental Impact Statement for Marlinton, West Virginia Local Protection Project dated September 2008: *Provided further*, That the Federal and non-Federal shares shall be determined in accordance with the ability-to-pay provisions prescribed in section 103(m) of the Water Resources Development Act of 1986, as amended: *Provided further*, That the Chief of Engineers is directed to use $4,000,000 of the funds appropriated herein for 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 Chief of Engineers is directed to use $2,750,000 of the funds appropriated herein to continue 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 use $9,500,000 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 not less than $3,000,000 of the funds provided for the Levisa and Tug Forks in Kentucky shall be used for the project in the Town of Martin, Kentucky.

MISSISSIPPI RIVER AND TRIBUTARIES

For expenses necessary for flood damage reduction projects and related efforts in the Mississippi River alluvial valley below Cape Girardeau, Missouri, as authorized by law, $340,000,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of eligible operation and maintenance costs for inland harbors shall be derived from the Harbor Maintenance Trust Fund: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use $9,661,000 appropriated herein for 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; providing security for infrastructure owned or operated by the Corps, including administrative buildings and laboratories; maintaining harbor channels provided by a State, municipality, or other public agency that serve essential navigation needs of general commerce, where authorized by law; surveying and charting northern and northwestern lakes and connecting waters; clearing and straightening channels; and removing obstructions to navigation, $2,400,000,000, to remain available until expended, of which such sums as are necessary to cover the Federal share of eligible operation and maintenance costs for coastal harbors and channels, and for inland harbors shall be derived from the Harbor Maintenance Trust Fund; of which such sums as become available from the special account for the Corps established by the Land and Water Conservation Act of 1965 (16 U.S.C. 460l–6a(i)), shall be derived from that account for resource protection, research, interpretation, and maintenance activities related to resource protection in the areas at which outdoor recreation is available; and of which such sums as become available from fees collected under section 217 of the Water Resources Development Act of 1996 (Public Law 104–303) shall be used to cover the cost of operation and maintenance of the dredged material disposal facilities for which such fees have been collected: *Provided*, That 1 percent of the total amount of funds provided for each of the programs, projects or activities funded under this heading shall not be allocated to a field operating activity prior to the beginning of the fourth quarter of the fiscal year and shall be available for use by the Chief of Engineers to fund such emergency activities as the Chief of Engineers determines to be necessary and appropriate; and that the Chief of Engineers shall allocate during the fourth quarter any remaining funds which have not been used for emergency activities proportionally in accordance with the amounts provided for the programs, projects or activities.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $190,000,000, 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, $134,000,000, to remain available until expended.

EXPENSES

For expenses necessary for the supervision and general administration of the civil works program in the headquarters of the United States Army Corps of Engineers and the offices of the Division Engineers; and for the management and operation of 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, $185,000,000, to remain available until expended, of which not to exceed $5,000 may be used for official reception and representation purposes and only during the current fiscal year: *Provided*, That no part of any other appropriation provided in title I of this Act shall be available to fund the civil works activities of the Office of the Chief of Engineers or the civil works executive direction and management activities of the division offices: *Provided further*, That any Flood Control and Coastal Emergencies appropriation may be used to fund the supervision and general administration of emergency operations, repairs, and other activities in response to any flood, hurricane, or other natural disaster.

OFFICE OF ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

For the Office of Assistant Secretary of the Army (Civil Works) as authorized by 10 U.S.C. 3016(b)(3), $5,000,000, to remain available until expended.

ADMINISTRATIVE PROVISION

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

GENERAL PROVISIONS, CORPS OF ENGINEERS—CIVIL

SEC. 101. (a) None of the funds provided in title I of this Act, or provided by previous appropriations Acts to the agencies or entities funded in title I of this Act that remain available for obligation or expenditure in fiscal year 2010, shall be available for obligation or expenditure through a reprogramming of funds that:

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

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

(4) proposes to use funds directed for a specific activity for a different purpose, unless prior approval is received from the House and Senate Committees on Appropriations;

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

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

(7) CONSTRUCTION.—For a base level over $2,000,000, reprogramming of 15 percent of the base amount up to a limit of $3,000,000 per project, study or activity is allowed: *Provided*, That for a base level less than $2,000,000, the reprogramming limit is $300,000: *Provided further*, That up to $3,000,000 may be reprogrammed for settled contractor claims, changed conditions, or real estate deficiency judgments: *Provided further*, That up to $300,000 may be reprogrammed into any continuing study or activity that did not receive an appropriation for existing obligations and concomitant administrative expenses;

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

(9) MISSISSIPPI RIVER AND TRIBUTARIES.—The same reprogramming guidelines for the Investigations, Construction, and Operation and Maintenance portions of the Mississippi River and Tributaries Account as listed above; and

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

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

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

(d) Not later than 60 days after the date of enactment of this Act, the Corps of Engineers shall submit a report to the House and Senate Committees on Appropriations to establish the

baseline for application of reprogramming and transfer authorities for the current fiscal year: *Provided*, That the report shall include:

(1) A table for each appropriation with a separate column to display the President's budget request, adjustments made by Congress, adjustments due to enacted rescissions, if appropriate, and the fiscal year enacted level;

(2) A delineation in the table for each appropriation both by object class and program, project and activity as detailed in the budget appendix for the respective appropriations; and

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

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

SEC. 103. None of the funds made available in this title may be used to award or modify any contract that commits funds beyond the amounts appropriated for that program, project, or activity that remain unobligated, except that such amounts may include any funds that have been made available through reprogramming pursuant to section 101.

SEC. 104. None of the funds in this Act, or previous Acts making funds available for Energy and Water Development, shall be used to award any continuing contract that commits additional funding from the Inland Waterways Trust Fund unless or until such time that a long-term mechanism to enhance revenues in the Fund sufficient to meet the cost-sharing authorized in the Water Resources Development Act of 1986 (Public Law 99–662) is enacted.

SEC. 105. The project for navigation, Two Harbors, Minnesota, being carried out under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), and modified by section 3101 of the Water Resources Development Act of 2007 (121 Stat. 1133), is further modified to direct the Secretary to credit, in accordance with section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d–5b), toward the non-Federal share of the project the cost of planning, design, and construction work carried out by the non-Federal interest for the project before the date of execution of a partnership agreement for the project.

SEC. 106. Section 154(h) of title I of division B of the Miscellaneous Appropriations Act, 2001 (114 Stat. 2763A–254) (as enacted into law by Public Law 106–554) is amended by striking "$40,000,000" and inserting "$60,000,000".

SEC. 107. The Secretary is directed to use such funds as are necessary, from amounts made available in this Act under the heading "Construction", to expedite acquisition of those properties located in the vicinity of Martin, Kentucky, that were damaged by the floodwaters in the May 2009 flood event and that fall within Phases 3 and 4 of the mandatory and voluntary acquisition elements identified in Plan A of the Chief of Engineers, Town of Martin Nonstructural Project Detailed Project Report, Appendix T, Section 202 General Plan, dated March 2000.

SEC. 108. Within 90 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. 109. (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, ch. 795) and the Act of July 24, 1946 (60 Stat. 636, ch. 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. 110. Section 592(g) of Public Law 106–53 (113 Stat. 380), as amended by section 120 of Public Law 108–137 (117 Stat. 1837) and section 5097 of Public Law 110–114 (121 Stat. 1233), is further amended by striking "$110,000,000" and inserting "$200,000,000" in lieu thereof.

SEC. 111. The project for flood control, Big Sioux River and Skunk Creek, Sioux Falls, South Dakota authorized by section 101(a)(28) of the Water Resources Development Act of 1996 (Public Law 104–303; 110 Stat. 3666), is modified to authorize the Secretary to construct the project at an estimated total cost of $53,500,000, with an estimated Federal cost of $37,700,000 and an estimated non-Federal cost of $15,800,000.

SEC. 112. Section 595(h) of Public Law 106–53 (113 Stat. 384), as amended by section 5067 of Public Law 110–114 (121 Stat. 1219), is further amended by—

(1) striking the phrase "$25,000,000 for each of Montana and New Mexico" and inserting the following language in lieu thereof: "$75,000,000 for Montana, $25,000,000 for New Mexico"; and

(2) striking "$50,000,000" and inserting "$100,000,000" in lieu thereof.

SEC. 113. The project for flood damage reduction, Des Moines and Raccoon Rivers, Des Moines Iowa, authorized by section 1001(21) of the Water Resources Development Act of 2007 (121 Stat. 1053), is modified to authorize the Secretary to construct the project at a total cost of $16,500,000 with an estimated Federal cost of $10,725,000 and an estimated non-Federal cost of $5,775,000.

SEC. 114. The project for flood damage reduction, Breckenridge, Minnesota, authorized by section 320 of the Water Resources Development Act of 2000 (Public Law 106–541; 114 Stat. 2605), is modified to authorize the Secretary to construct the project at a total cost of $39,360,000 with an estimated Federal cost of $25,000,000 and an estimated non-Federal cost of $14,360,000.

SEC. 115. Section 122 of title I of division D of the Consolidated Appropriations Resolution, 2003 (Public Law 108–7; 117 Stat. 141) is amended by striking "$10,000,000" and inserting "$27,000,000" in lieu thereof.

SEC. 116. The Secretary of the Army is authorized to carry out 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: *Provided*, That the non-Federal share of any project carried out pursuant to this section shall be no more than 35 percent of the total cost of the project and shall be subject to the ability of the non-Federal interest to pay, as determined in accordance with 33 U.S.C. 2213(m).

SEC. 117. Section 3111(1) of the Water Resources Development Act, 2007 (Public Law 110–114; 121 Stat. 1041) is amended by inserting after the word "before", the following: ", on and after".

SEC. 118. The flood control project for West Sacramento, California, authorized by section 101(4), Water Resources Development Act, 1992, Public Law 102–580; Energy and Water Development Appropriations Act, 1999, Public Law 105–245, is modified to authorize the Secretary of Army, acting through the Chief of Engineers, to construct the project at a total cost of $53,040,000 with an estimated first Federal cost of $38,355,000 and an estimated non-Federal first cost of $14,685,000.

SEC. 119. Section 528(b)(3)(C)(ii) of the Water Resources Development Act of 1996 (110 Stat. 3769; 121 Stat. 1270) is amended—

(1) in subclause (I), by striking "subclause (II)" and inserting "subclauses (II) and (III)"; and

(2) by adding at the end the following:

"(III) TEN MILE CREEK WATER PRESERVE AREA.—The Federal share of the cost of the Ten Mile Creek Water Preserve Area may exceed $25,000,000 by an amount equal to not more than $3,500,000, which shall be used to pay the Federal share of the cost of—

"(aa) the completion of a post authorization change report; and

"(bb) the maintenance of the Ten Mile Creek Water Preserve Area in caretaker status through fiscal year 2013.".

SEC. 120. As soon as practicable after the date of enactment of this Act, from funds made available before the date of enactment of this Act for the Tampa Harbor Big Bend Channel project, the Secretary of the Army shall reimburse the non-Federal sponsor of the Tampa Harbor Big Bend Channel project for the Federal share of the dredging work carried out for the project.

SEC. 121. Notwithstanding any other provision of law, including section 103(c)(4) of Public Law 99–662 (33 U.S.C. 2213(c)(4)), the cost of any work carried out heretofore or hereafter on construction of the trail system authorized for the J. Percy Priest Dam and Reservoir, Tennessee by section 5132 of Public Law 110–114 (121 Stat. 1249) shall be a Federal cost, the total of which may not exceed $10,300,000.

SEC. 122. Section 3112(1) of the Water Resources Development Act, 2007 (Public Law 110–114; 121 Stat. 1041) is amended by inserting after the word "before", the following: ", on and after".

SEC. 123. Section 805(a)(2) of Public Law 106–541 (114 Stat. 2704) is amended by striking "2010" each place it appears and inserting "2013".

SEC. 124. The Secretary of the Army is authorized to carry out the project for storm damage reduction, Kahuku, Oahu, Hawaii, at a total cost of $6,700,000, with an estimated Federal cost of $4,360,000 and an estimated non-Federal cost of $2,340,000.

SEC. 125. The Secretary of the Army is authorized to acquire 24 parcels of land consisting of approximately 235 acres located within Township 21 South, Range 28 East, Sections 25, 26, 27, 34, 35 and 36, and Township 22 South, Range 28 East, Section 3 in Tulare County, for the Dam Safety Seismic Remediation project at Success Dam on the Tule River in the State of California,

authorized by section 10 of the Flood Control Act of December 22, 1944 (58 Stat. 901); Provided, That the lands shall be available for use in connection with any activity carried out at the Success Dam and Reservoir.

SEC. 126. During the 1-year period beginning on the date of enactment of this Act, the Secretary of the Army shall implement measures recommended in the efficacy study, or provided in interim reports, authorized under section 3061 of the Water Resources Development Act of 2007 (121 Stat. 1121), with such modifications or emergency measures as the Secretary of the Army determines to be appropriate, to prevent aquatic nuisance species from bypassing the Chicago Sanitary and Ship Canal Dispersal Barrier Project referred to in that section and to prevent aquatic nuisance species from dispersing into the Great Lakes.

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, $40,300,000, to remain available until expended, of which $1,500,000 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, $1,704,000, to remain available until expended. For fiscal year 2010, the Commission may use an amount not to exceed $1,500,000 for administrative expenses.

BUREAU OF RECLAMATION

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

WATER AND RELATED RESOURCES

(INCLUDING TRANSFERS OF FUNDS)

For management, development, and restoration of water and related natural resources and for related activities, including the operation, maintenance, and rehabilitation of reclamation and other facilities, participation in fulfilling related Federal responsibilities to Native Americans, and related grants to, and cooperative and other agreements with, State and local governments, federally recognized Indian tribes, and others, $951,158,000, to remain available until expended, of which $48,740,000 shall be available for transfer to the Upper Colorado River Basin Fund and $17,256,000 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*, That such transfers may be increased or decreased

within the overall appropriation under this heading: *Provided further*, That of the total appropriated, the amount for program activities that can be financed by the Reclamation Fund or the Bureau of Reclamation special fee account established by 16 U.S.C. 460l–6a(i) shall be derived from that Fund or account: *Provided further*, That funds contributed under 43 U.S.C. 395 are available until expended for the purposes for which contributed: *Provided further*, That funds advanced under 43 U.S.C. 397a shall be credited to this account and are available until expended for the same purposes as the sums appropriated under this heading: *Provided further*, That $3,500,000 of the funds appropriated under this heading shall be deposited in the San Gabriel Basin Restoration Fund established by section 110 of title I of appendix D of Public Law 106–554: *Provided further*, That $5,000,000 of the funds appropriated under this heading shall be available for the "Power Program Services" to implement the Bureau of Reclamation's hydropower facilities installations identified under section 1834 of the Energy Policy Act of 2005: *Provided further*, That the funds provided herein for the St. Mary Storage Unit facilities, Milk River Project, Montana, shall be used on a nonreimbursible basis: *Provided further*, That funds available for expenditure for the Departmental Irrigation Drainage Program may be expended by the Bureau of Reclamation for site remediation on a nonreimbursable basis.

CENTRAL VALLEY PROJECT RESTORATION FUND

For carrying out the programs, projects, plans, habitat restoration, improvement, and acquisition provisions of the Central Valley Project Improvement Act, $35,358,000, 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), and 3405(f) of Public Law 102–575, to remain available until expended: *Provided*, That the Bureau of Reclamation is directed to assess and collect the full amount of the additional mitigation and restoration payments authorized by section 3407(d) of Public Law 102–575: *Provided further*, That none of the funds made available under this heading may be used for the acquisition or leasing of water for in-stream purposes if the water is already committed to in-stream purposes by a court adopted decree or order.

CALIFORNIA BAY-DELTA RESTORATION

(INCLUDING TRANSFERS OF FUNDS)

For carrying out activities authorized by the Water Supply, Reliability, and Environmental Improvement Act, consistent with plans to be approved by the Secretary of the Interior, $40,000,000, to remain available until expended, of which such amounts as may be necessary to carry out such activities may be transferred to appropriate accounts of other participating Federal agencies to carry out authorized purposes: *Provided*, That funds appropriated herein may be used for the Federal share of the costs of CALFED Program management: *Provided further*, That the use of any funds provided to the California Bay-Delta Authority for program-wide management and oversight activities shall be subject to the approval of the Secretary of the Interior: *Provided further*, That CALFED implementation shall be carried out in a balanced manner with

clear performance measures demonstrating concurrent progress in achieving the goals and objectives of the Program.

POLICY AND ADMINISTRATION

For necessary expenses of policy, administration, and related functions in the Office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, to remain available until expended, $61,200,000, to be derived from the Reclamation Fund and be nonreimbursable as provided in 43 U.S.C. 377: *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted as policy and administration expenses.

ADMINISTRATIVE PROVISION

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

GENERAL PROVISIONS—DEPARTMENT OF THE INTERIOR

SEC. 201. (a) None of the funds provided in title II of this Act for Water and Related Resources, or provided by previous appropriations Acts to the agencies or entities funded in title II of this Act for Water and Related Resources that remain available for obligation or expenditure in fiscal year 2010, shall be available for obligation or expenditure through a reprogramming of funds that—

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

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

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

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

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

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

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

(6) transfers more than $500,000 from either the Facilities Operation, Maintenance, and Rehabilitation category or the Resources Management and Development category to any program, project, or activity in the other category, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate; or

(7) transfers, where necessary to discharge legal obligations of the Bureau of Reclamation, more than $5,000,000 to provide adequate funds for settled contractor claims, increased contractor earnings due to accelerated rates of operations, and

real estate deficiency judgments, unless prior approval is received from the Committees on Appropriations of the House of Representatives and the Senate.

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

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

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

SEC. 202. (a) None of the funds appropriated or otherwise made available by this Act may be used to determine the final point of discharge for the interceptor drain for the San Luis Unit until development by the Secretary of the Interior and the State of California of a plan, which shall conform to the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters.

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

SEC. 203. None of the funds appropriated or otherwise made available by this or any other Act may be used to pay the salaries and expenses of personnel to purchase or lease water in the Middle Rio Grande or the Carlsbad Projects in New Mexico unless said purchase or lease is in compliance with the purchase requirements of section 202 of Public Law 106–60.

SEC. 204. Funds under this title for Drought 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.

SEC. 205. Section 9 of the Fort Peck Reservation Rural Water System Act of 2000 (Public Law 106–382; 114 Stat. 1457) is amended by striking "over a period of 10 fiscal years" each place it appears in subsections (a)(1) and (b) and inserting "through fiscal year 2015".

SEC. 206. Section 208(a) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109–103; 119 Stat. 2268), is amended—

(1) in paragraph (1)—

(A) by redesignating clauses (i) through (iv) of subparagraph (B) as subclauses (I) through (IV), respectively, and indenting the subclauses appropriately;

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and indenting the clauses appropriately;

(C) by striking "(a)(1) Using" and inserting the following:

"(a) ACTION BY SECRETARY.—

"(1) PROVISION OF FUNDS.—

"(A) IN GENERAL.—Using";

(D) in subparagraph (A) (as so redesignated)—

(i) in the matter preceding clause (i) (as so redesignated), by inserting "or the National Fish and Wildlife Foundation" after "University of Nevada";

(ii) in clause (ii)(IV) (as so redesignated), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(iii) to design and implement conservation and stewardship measures to address impacts from activities carried out—

"(I) under clause (i); and

"(II) in conjunction with willing landowners."; and

(E) by adding at the end the following:

"(B) NATIONAL FISH AND WILDLIFE FOUNDATION.—

"(i) DATE OF PROVISION.—The Secretary shall provide funds to the National Fish and Wildlife Foundation pursuant to subparagraph (A) in an advance payment of the available amount—

"(I) on the date of enactment of the Energy and Water Development and Related Agencies Appropriations Act, 2010; or

"(II) as soon as practicable after that date of enactment.

"(ii) REQUIREMENTS.—

"(I) IN GENERAL.—Except as provided in subclause (II), the funds provided under clause (i) shall be subject to the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.), in accordance with section 10(b)(1) of that Act (16 U.S.C. 3709(b)(1)).

"(II) EXCEPTIONS.—Sections 4(e) and 10(b)(2) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(e), 3709(b)(2)), and the provision of subsection (c)(2) of section 4 of that Act (16 U.S.C. 3703) relating to subsection (e) of that section, shall not apply to the funds provided under clause (i)."; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "paragraph (1)(A)" and all that follows through "beneficial to—" and inserting "paragraph (1)(A)(i), the University of Nevada or the National Fish and Wildlife Foundation shall make acquisitions that the University

or the Foundation determines to be the most beneficial to—"; and

(B) in subparagraph (A), by striking "paragraph (1)(B)" and inserting "paragraph (1)(A)(ii)".

SEC. 207. Section 2507(b) of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171) is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) for efforts consistent with researching, supporting, and conserving fish, wildlife, plant, and habitat resources in the Walker River Basin.".

SEC. 208. (a) Of the amounts made available under section 2507 of the Farm Security and Rural Investment Act of 2002 (43 U.S.C. 2211 note; Public Law 107–171), the Secretary of the Interior, acting through the Commissioner of Reclamation, shall—

(1) provide, subject to subsection (b), $66,200,000 to establish the Walker Basin Restoration Program for the primary purpose of restoring and maintaining Walker Lake, a natural desert terminal lake in the State of Nevada, consistent with protection of the ecological health of the Walker River and the riparian and watershed resources of the West, East, and Main Walker Rivers; and

(2) allocate—

(A) acting through a nonprofit conservation organization that is acting in consultation with the Truckee Meadows Water Authority, $2,000,000, to remain available until expended, for—

(i) the acquisition of land surrounding Independence Lake; and

(ii) protection of the native fishery and water quality of Independence Lake, as determined by the nonprofit conservation organization;

(B) $5,000,000 to provide grants of equal amounts to the State of Nevada, the State of California, the Truckee Meadows Water Authority, the Pyramid Lake Paiute Tribe, and the Federal Watermaster of the Truckee River to implement the Truckee-Carson-Pyramid Lake Water Rights Settlement Act (Public Law 101–618; 104 Stat. 3294);

(C) $1,500,000, to be divided equally by the city of Fernley, Nevada, and the Pyramid Lake Paiute Tribe, for joint planning and development activities for water, wastewater, and sewer facilities;

(D) $1,000,000 to the United States Geological Survey to design and implement, in consultation and cooperation with other Federal departments and agencies, State and tribal governments, and other water management and conservation organizations, a water monitoring program for the Walker River Basin; and

(E) $45,000,000 to implement the 1996 Truckee River Water Quality Settlement Agreement by acquiring water rights for the benefit of the Truckee River and Pyramid Lake.

(b)(1) The amount made available under subsection (a)(1) shall be—

(A) used, consistent with the primary purpose set forth in subsection (a)(1), to support efforts to preserve Walker Lake while protecting agricultural, environmental, and habitat interests in the Walker River Basin; and

(B) allocated as follows:

(i) $25,000,000 to the Walker River Irrigation District, acting in accordance with an agreement between that District and the National Fish and Wildlife Foundation—

(I) to administer and manage a 3-year water leasing demonstration program in the Walker River Basin to increase Walker Lake inflows; and

(II) for use in obtaining information regarding the establishment, budget, and scope of a longer-term leasing program.

(ii) $25,000,000 to advance the acquisition of water and related interests from willing sellers authorized by section 208(a)(1)(A)(i) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109–103; 119 Stat. 2268).

(iii) $1,000,000 for activities relating to the exercise of acquired option agreements and implementation of the water leasing demonstration program, including but not limited to the pursuit of change applications, approvals, and agreements pertaining to the exercise of water rights and leases acquired under the program.

(iv) $10,000,000 for associated conservation and stewardship activities, including water conservation and management, watershed planning, land stewardship, habitat restoration, and the establishment of a local, nonprofit entity to hold and exercise water rights acquired by, and to achieve the purposes of, the Walker Basin Restoration Program.

(v) $5,000,000 to the University of Nevada, Reno, and the Desert Research Institute—

(I) for additional research to supplement the water rights research conducted under section 208(a)(1)(A)(ii) of the Energy and Water Development Appropriations Act, 2006 (Public Law 109–103; 119 Stat. 2268);

(II) to conduct an annual evaluation of the results of the activities carried out under clauses (i) and (ii); and

(III) to support and provide information to the programs described in this subparagraph and related acquisition and stewardship initiatives to preserve Walker Lake and protect agricultural, environmental, and habitat interests in the Walker River Basin.

(vi) $200,000 to support alternative crops and alternative agricultural cooperatives programs in Lyon and Mineral Counties, Nevada, that promote water conservation in the Walker River Basin.

(2)(A) The amount made available under subsection (a)(1) shall be provided to the National Fish and Wildlife Foundation—

(i) in an advance payment of the entire amount—

(I) on the date of enactment of this Act; or

(II) as soon as practicable after that date of enactment; and

(ii) except as provided in subparagraph (B), subject to the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701 et seq.), in accordance with section 10(b)(1) of that Act (16 U.S.C. 3709(b)(1)).

(B) Sections 4(e) and 10(b)(2) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703(e), 3709(b)(2)), and the provision of subsection (c)(2) of section 4 of that Act (16 U.S.C. 3703) relating to subsection (e) of that section, shall not apply to the amount made available under subsection (a)(1).

SEC. 209. Notwithstanding the provisions of section 11(c) of Public Law 89–108, as amended by section 9 of Public Law 99–294, the Commissioner is directed to modify the April 9, 2002, Grant Agreement Between Bureau of Reclamation and North Dakota Natural Resources Trust to provide funding for the Trust to continue its investment program/Agreement No. 02FG601633 to authorize the North Dakota Natural Resources Trust Board of Directors to expend all or any portion of the funding allocation received pursuant to section 11(a)(2)(B) of the Dakota Water Resources Act of 2000 for the purpose of operations of the Natural Resource Trust whether such amounts are principal or received as investment income: *Provided*, That operational expenses that may be funded from the principal allocation shall not exceed 105 percent of the previous fiscal year's operating costs: *Provided further*, That the Commissioner of Reclamation is authorized to include in such modified agreement with the Trust authorized under this section appropriate provisions regarding the repayment of any funds that constitute principal from the Trust Funds.

SEC. 210. Title I of Public Law 108–361 is amended by striking "2010" wherever it appears and inserting "2014" in lieu thereof.

SEC. 211. (a) Section 3405(a)(1)(M) of Public Law 102–575 (106 Stat. 4709) is amended by striking "countries" and inserting "counties".

(b) A transfer of water between a Friant Division contractor and a south-of-Delta CVP agricultural water service contractor, approved during a two-year period beginning on the date of enactment of this Act shall, be deemed to meet the conditions set forth in subparagraphs (A) and (I) of section 3405(a)(1) of Public Law 102–575 (106 Stat. 4709) if the transfer under this clause—

(1) does not interfere with the San Joaquin River Restoration Settlement Act (part I of subtitle A of title X of Public Law 111–11; 123 Stat. 1349) (including the priorities described in section 10004(a)(4)(B) of that Act relating to implementation of paragraph 16 of the Settlement), and the Settlement (as defined in section 10003 of that Act); and

(2) is completed by September 30, 2012.

(c) As soon as practicable after the date of enactment of this Act, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, shall revise, finalize, and implement the applicable draft recovery plan for the Giant Garter Snake (Thamnophis gigas).

TITLE III

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

ENERGY EFFICIENCY AND RENEWABLE ENERGY

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for energy efficiency and renewable energy activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $2,242,500,000, to remain available until expended: *Provided*, That funds provided under this heading in this and prior appropriation Acts are available for on-site and off-site improvements for the Ingress/Egress and Traffic Capacity Upgrades project at the National Renewable Energy Laboratory: *Provided further*, That, of the $80,000,000 provided under the wind energy subaccount under Energy Efficiency and Renewable Energy, up to $8,000,000 may be competitively awarded to universities for turbine and equipment purchases for the purposes of studying turbine to turbine wake interaction, wind farm interaction, and wind energy efficiencies, provided that such equipment shall not be used for merchant power production: *Provided further*, That, of the amount appropriated in this paragraph, $292,135,000 shall be used for the projects specified in the table that appears under the heading "Congressionally Directed Energy Efficiency and Renewable Energy Projects" in the joint explanatory statement accompanying the conference report on this Act.

ELECTRICITY DELIVERY AND ENERGY RELIABILITY

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for electricity delivery and energy reliability activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $171,982,000, to remain available until expended: *Provided*, That, within the funding available funding the Secretary shall establish an independent national energy sector cyber security organization to institute research, development and deployment priorities, including policies and protocol to ensure the effective deployment of tested and validated technology and software controls to protect the bulk power electric grid and integration of smart grid technology to enhance the security of the electricity grid: *Provided further*, That within 60 days of enactment, the Secretary shall invite applications from qualified entities for the purpose of forming and governing a national energy sector cyber organization that have the knowledge and capacity to focus cyber security research and development and to identify and disseminate best practices; organize the collection, analysis and dissemination of infrastructure vulnerabilities and threats; work cooperatively with the Department of Energy and other Federal agencies to identify areas where Federal agencies with jurisdiction may best support efforts to enhance

security of the bulk power electric grid: *Provided further*, That, of the amount appropriated in this paragraph, $13,075,000 shall be used for projects specified in the table that appears under the heading "Congressionally Directed Electricity Delivery and Energy Reliability Projects" in the joint explanatory statement accompanying the conference report on this Act.

NUCLEAR ENERGY

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for nuclear energy activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not more than 36 passenger motor vehicles, including one ambulance, all for replacement only, $786,637,000, to remain available until expended: *Provided*, That, of the amount appropriated in this paragraph, $2,500,000 shall be used for projects specified in the table that appears under the heading "Congressionally Directed Nuclear Energy Projects" in the joint explanatory statement accompanying the conference report on this Act.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95–91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, and for conducting inquiries, technological investigations and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs (30 U.S.C. 3, 1602, and 1603), $672,383,000, to remain available until expended: *Provided*, That for all programs funded under Fossil Energy appropriations in this Act or any other Act, the Secretary may vest fee title or other property interests acquired under projects in any entity, including the United States: *Provided further*, That, of the amount appropriated in this paragraph, $36,850,000 shall be used for projects specified in the table that appears under the heading "Congressionally Directed Fossil Energy Projects" in the joint explanatory statement accompanying the conference report on this Act.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For expenses necessary to carry out naval petroleum and oil shale reserve activities, including the hire of passenger motor vehicles, $23,627,000, to remain available until expended: *Provided*, That, notwithstanding any other provision of law, unobligated funds remaining from prior years shall be available for all naval petroleum and oil shale reserve activities.

STRATEGIC PETROLEUM RESERVE

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities

pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), $243,823,000, to remain available until expended.

NORTHEAST HOME HEATING OIL RESERVE

For necessary expenses for Northeast Home Heating Oil Reserve storage, operation, and management activities pursuant to the Energy Policy and Conservation Act, $11,300,000, to remain available until expended.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $110,595,000, to remain available until expended.

NON-DEFENSE ENVIRONMENTAL CLEANUP

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for non-defense environmental cleanup activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $244,673,000, to remain available until expended.

URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND

For necessary expenses in carrying out uranium enrichment facility decontamination and decommissioning, remedial actions, and other activities of title II of the Atomic Energy Act of 1954, and title X, subtitle A, of the Energy Policy Act of 1992, $573,850,000, to be derived from the Uranium Enrichment Decontamination and Decommissioning Fund, to remain available until expended.

SCIENCE

(INCLUDING TRANSFER OF FUNDS)

For Department of Energy expenses including the purchase, construction, and acquisition of plant and capital equipment, and other expenses necessary for science activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion, and purchase of not more than 50 passenger motor vehicles for replacement only, including one law enforcement vehicle, two ambulances, and three buses, $4,903,710,000, to remain available until expended: *Provided*, That $15,000,000 appropriated under this heading under prior appropriation Acts for the Advanced Research Projects Agency—Energy is hereby transferred to the "Advanced Research Projects Agency—Energy" account: *Provided further*, That, of the amount appropriated in this paragraph, $76,890,000 shall be used for the projects specified in the table

that appears under the heading "Congressionally Directed Science Projects" in the joint explanatory statement accompanying the conference report on this Act.

NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of the Nuclear Waste Policy Act of 1982, Public Law 97–425, as amended (the "NWPA"), $98,400,000, to remain available until expended, and to be derived from the Nuclear Waste Fund: *Provided*, That of the funds made available in this Act for nuclear waste disposal and defense nuclear waste disposal activities, 2.54 percent shall be provided to the Office of the Attorney General of 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 NWPA: *Provided further*, That notwithstanding the lack of a written agreement with the State of Nevada under section 117(c) of the NWPA, 0.51 percent shall be provided to Nye County, Nevada, for on-site oversight activities under section 117(d) of the NWPA: *Provided further*, That of the funds made available in this Act for nuclear waste disposal and defense nuclear waste disposal activities, 4.57 percent shall be provided to affected units of local government, as defined in the NWPA, to conduct appropriate activities and participate in licensing activities under Section 116(c) of the NWPA: *Provided further*, That of the amounts provided to affected units of local government, 7.5 percent of the funds provided for the affected units of local government shall be made available to affected units of local government in California with the balance made available to affected units of local government in Nevada for distribution as determined by the Nevada affected units of local government: *Provided further*, That of the funds made available in this Act for nuclear waste disposal and defense nuclear waste disposal activities, 0.25 percent shall be provided to the affected federally-recognized Indian tribes, as defined in the NWPA, solely for expenditures, other than salaries and expenses of tribal employees, to conduct appropriate activities and participate in licensing activities under section 118(b) of the NWPA: *Provided further*, That notwithstanding the provisions of chapters 65 and 75 of title 31, United States Code, the Department shall have no monitoring, auditing or other oversight rights or responsibilities over amounts provided to affected units of local government: *Provided further*, That the funds for the State of Nevada shall be made available solely to the Office of the Attorney General by direct payment and to units of local government by direct payment: *Provided further*, That 4.57 percent of the funds made available in this Act for nuclear waste disposal and defense nuclear waste disposal activities shall be provided to Nye County, Nevada, as payment equal to taxes under section 116(c)(3) of the NWPA: *Provided further*, That within 90 days of the completion of each Federal fiscal year, the Office of the Attorney General of the State of Nevada, each affected federally-recognized Indian tribe, and each of the affected units of local government shall provide certification to the Department of Energy that all funds expended from such payments have been expended for activities authorized by the NWPA and this Act: *Provided further*, That failure to provide such

certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be: (1) used directly or indirectly to influence legislative action, except for normal and recognized executive-legislative communications, 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 NWPA, including but not limited to, any proceeds from the sale of assets, shall be available without further appropriation and shall remain available until expended: *Provided further*, That of the funds made available in this Act for Nuclear Waste Disposal, $5,000,000 shall be provided to create a Blue Ribbon Commission to consider all alternatives for nuclear waste disposal: *Provided further*, That no funds provided in this Act or any previous Act may be used to pursue repayment or collection of funds provided in any fiscal year to affected units of local government for oversight activities that had been previously approved by the Department of Energy, or to withhold payment of any such funds.

TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM

Such sums as are derived from amounts received from borrowers pursuant to section 1702(b)(2) of the Energy Policy Act of 2005 under this heading in prior Acts, shall be collected in accordance with section 502(7) of the Congressional Budget Act of 1974: *Provided,,* That for necessary administrative expenses to carry out this Loan Guarantee program, $43,000,000 is appropriated, to remain available until expended: *Provided further*, That $43,000,000 of the fees collected pursuant to section 1702(h) of the Energy Policy Act of 2005 shall be credited as offsetting collections to this account to cover administrative expenses and shall remain available until expended, so as to result in a final fiscal year 2010 appropriations from the general fund estimated at not more than $0: *Provided further*, That fees collected under section 1702(h) in excess of the amount appropriated for administrative expenses shall not be available until appropriated.

ADVANCED TECHNOLOGY VEHICLES MANUFACTURING LOAN PROGRAM

For administrative expenses in carrying out the Advanced Technology Vehicles Manufacturing Loan Program, $20,000,000, to remain available until expended.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for departmental administration in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the hire of passenger motor vehicles and official reception and representation expenses not to exceed $30,000, $288,684,000, 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 $119,740,000 in fiscal year 2010 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 2010, and any related appropriated receipt account balances remaining from prior years' miscellaneous revenues, so as to result in a final fiscal year 2010 appropriation from the general fund estimated at not more than $168,944,000.

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, $51,927,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, the purchase of not to exceed one ambulance; $6,384,431,000, to remain available until expended: *Provided*, That $357,800,000 is provided to Stockpile Systems activities including $91,956,000 for the B61 Stockpile Systems activities: *Provided further*, That upon completion of the Nuclear Posture Review and confirmation of the requirement for the B61–12, the NNSA is authorized to reallocate an additional $15,000,000 within the Stockpile Systems activities to support the continuation of the B61–12 non-nuclear upgrade study, with notification to cognizant congressional committees within 15 days of the implementation of this action: *Provided further*, That no funds may be obligated or expended for B61–12 nuclear components without prior approval by the Appropriations Committees of the House and Senate: *Provided further*, That, of the amount appropriated in this paragraph, $3,000,000 shall be used for the projects specified under the heading "Congressionally Directed Weapons Activities Projects" in the joint explanatory statement accompanying the conference report on this Act.

DEFENSE NUCLEAR NONPROLIFERATION

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and

other incidental expenses necessary for defense nuclear nonproliferation activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed one passenger motor vehicle for replacement only, $2,136,709,000, to remain available until expended: *Provided*, That, of the amount appropriated in this paragraph, $250,000 shall be used for the projects specified under the heading "Congressionally Directed Defense Nuclear Nonproliferation Projects" in the joint explanatory statement accompanying the conference report on this Act.

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, $945,133,000, to remain available until expended.

OFFICE OF THE ADMINISTRATOR

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of the Administrator in the National Nuclear Security Administration, including official reception and representation expenses not to exceed $12,000, $420,754,000, to remain available until expended: *Provided*, That $10,000,000 previously appropriated for cleanup efforts at Argonne National Lab shall be transferred to "Non-Defense Environmental Cleanup": *Provided further*, That, of the amount appropriated in this paragraph, $13,000,000 shall be used for the projects specified in the table that appears under the heading "Congressionally Directed Office of the Administrator (NNSA) Projects" in the joint explanatory statement accompanying the conference report on this Act.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL CLEANUP

(INCLUDING TRANSFER OF FUNDS)

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses necessary for atomic energy defense environmental cleanup activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed four ambulances and three passenger motor vehicles for replacement only, $5,642,331,000, to remain available until expended, of which $463,000,000 shall be transferred to the "Uranium Enrichment Decontamination and Decommissioning Fund": *Provided*, That, of the amount appropriated in this paragraph, $4,000,000 shall be used for projects specified in the

table that appears under the heading "Congressionally Directed Defense Environmental Cleanup Projects" in the joint explanatory statement accompanying the conference report on this Act.

OTHER DEFENSE ACTIVITIES

For Department of Energy expenses, including the purchase, construction, and acquisition of plant and capital equipment and other expenses, necessary for atomic energy defense, other defense activities, and classified activities, in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, and the purchase of not to exceed 12 passenger motor vehicles for replacement only, $847,468,000, to remain available until expended: *Provided*, That of the amount appropriated in this paragraph, $3,000,000 shall be used for projects specified in the table that appears under the heading "Congressionally Directed Other Defense Activities Projects" in the joint explanatory statement accompanying the conference report on this Act.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $98,400,000, 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 the Leaburg Fish Sorter, the Okanogan Basin Locally Adapted Steelhead Supplementation Program, and the Crystal Springs Hatchery Facilities, and, in addition, for official reception and representation expenses in an amount not to exceed $1,500. During fiscal year 2010, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, including transmission wheeling and ancillary services pursuant to section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $7,638,000, to remain available until expended: *Provided*, That notwithstanding 31 U.S.C. 3302 and section 5 of the Flood Control Act of 1944, up to $7,638,000 collected by the Southeastern Power Administration from the sale of power and related services shall be credited to this account as discretionary offsetting collections, to remain available until expended for the sole purpose of funding the annual expenses of the Southeastern Power Administration: *Provided further*, That the sum herein appropriated for annual expenses shall be reduced as collections are received during the fiscal year so as to result in a final fiscal year 2010 appropriation estimated at not more

than $0: *Provided further,* That, notwithstanding 31 U.S.C. 3302, up to $70,806,000 collected by the Southeastern Power Administration pursuant to the Flood Control Act of 1944 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures: *Provided further,* That notwithstanding the provisions of 31 U.S.C. 3302 and section 5 of the Flood Control Act of 1944, all funds collected by the Southeastern Power Administration that are applicable to the repayment of the annual expenses of this account in this and subsequent fiscal years shall be credited to this account as discretionary offsetting collections for the sole purpose of funding such expenses, with such funds remaining available until expended: *Provided further,* That for purposes of this appropriation, annual expenses means expenditures that are generally recovered in the same year that they are incurred (excluding purchase power and wheeling expenses).

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 in carrying out section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the Southwestern Power Administration, $44,944,000, to remain available until expended: *Provided,* That notwithstanding 31 U.S.C. 3302 and section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), up to $31,868,000 collected by the Southwestern Power Administration from the sale of power and related services shall be credited to this account as discretionary offsetting collections, to remain available until expended, for the sole purpose of funding the annual expenses of the Southwestern Power Administration: *Provided further,* That the sum herein appropriated for annual expenses shall be reduced as collections are received during the fiscal year so as to result in a final fiscal year 2010 appropriation estimated at not more than $13,076,000: *Provided further,* That, notwithstanding 31 U.S.C. 3302, up to $38,000,000 collected by the Southwestern Power Administration pursuant to the Flood Control Act of 1944 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures: *Provided further,* That notwithstanding 31 U.S.C. 3302 and section 5 of the Flood Control Act of 1944, all funds collected by the Southwestern Power Administration that are applicable to the repayment of the annual expenses of this account in this and subsequent fiscal years shall be credited to this account as discretionary offsetting collections for the sole purpose of funding such expenses, with such funds remaining available until expended: *Provided further,* That for purposes of this appropriation, annual expenses means expenditures that are generally recovered in the same year that they are incurred (excluding purchase power and wheeling expenses).

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; $256,711,000 to remain available until expended, of which $245,216,000 shall be derived from the Department of the Interior Reclamation Fund: *Provided*, That notwithstanding 31 U.S.C. 3302, section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), and section 1 of the Interior Department Appropriation Act, 1939 (43 U.S.C. 392a), up to $147,530,000 collected by the Western Area Power Administration from the sale of power and related services shall be credited to this account as discretionary offsetting collections, to remain available until expended, for the sole purpose of funding the annual expenses of the Western Area Power Administration: *Provided further*, That the sum herein appropriated for annual expenses shall be reduced as collections are received during the fiscal year so as to result in a final fiscal year 2010 appropriation estimated at not more than $109,181,000, of which $97,686,000 is derived from the Reclamation Fund: *Provided further*, That of the amount herein appropriated, $7,584,000 is for deposit into the Utah Reclamation Mitigation and Conservation Account pursuant to title IV of the Reclamation Projects Authorization and Adjustment Act of 1992: *Provided further*, That notwithstanding 31 U.S.C. 3302, up to $349,807,000 collected by the Western Area Power Administration pursuant to the Flood Control Act of 1944 and the Reclamation Project Act of 1939 to recover purchase power and wheeling expenses shall be credited to this account as offsetting collections, to remain available until expended for the sole purpose of making purchase power and wheeling expenditures: *Provided further*, That of the amount herein appropriated, up to $18,612,000 is provided on a nonreimbursable basis for environmental remediation at the Basic Substation site in Henderson, Nevada: *Provided further*, That notwithstanding 31 U.S.C. 3302, section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), and section 1 of the Interior Department Appropriation Act, 1939 (43 U.S.C. 392a), funds collected by the Western Area Power Administration from the sale of power and related services that are applicable to the repayment of the annual expenses of this account in this and subsequent fiscal years shall be credited to this account as discretionary offsetting collections for the sole purpose of funding such expenses, with such funds remaining available until expended: *Provided further*, That for purposes of this appropriation, annual expenses means expenditures that are generally recovered in the same year that they are incurred (excluding purchase power and wheeling expenses).

FALCON AND AMISTAD OPERATING AND MAINTENANCE FUND

For operation, maintenance, and emergency costs for the hydroelectric facilities at the Falcon and Amistad Dams, $2,568,000, to remain available until expended, and to be derived from the Falcon and Amistad Operating and Maintenance Fund of the Western Area Power Administration, as provided in section 2 of the Act of June 18, 1954 (68 Stat. 255) as amended: *Provided*,

That notwithstanding the provisions of that Act and of 31 U.S.C. 3302, up to $2,348,000 collected by the Western Area Power Administration from the sale of power and related services from the Falcon and Amistad Dams shall be credited to this account as discretionary offsetting collections, to remain available until expended for the sole purpose of funding the annual expenses of the hydroelectric facilities of these Dams and associated Western Area Power Administration activities: *Provided further*, That the sum herein appropriated for annual expenses shall be reduced as collections are received during the fiscal year so as to result in a final fiscal year 2010 appropriation estimated at not more than $220,000: *Provided further*, That notwithstanding the provisions of section 2 of the Act of June 18, 1954 (68 Stat. 255) as amended, and 31 U.S.C. 3302, all funds collected by the Western Area Power Administration from the sale of power and related services from the Falcon and Amistad Dams that are applicable to the repayment of the annual expenses of the hydroelectric facilities of these Dams and associated Western Area Power Administration activities in this and subsequent fiscal years shall be credited to this account as discretionary offsetting collections for the sole purpose of funding such expenses, with such funds remaining available until expended: *Provided further*, That for purposes of this appropriation, annual expenses means expenditures that are generally recovered in the same year that they are incurred.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), including services as authorized by 5 U.S.C. 3109, the hire of passenger motor vehicles, and official reception and representation expenses not to exceed $3,000, $298,000,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, not to exceed $298,000,000 of revenues from fees and annual charges, and other services and collections in fiscal year 2010 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 2010 so as to result in a final fiscal year 2010 appropriation from the general fund estimated at not more than $0.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

SEC. 301. None of the funds appropriated by this Act may be used to prepare or initiate Requests For Proposals (RFPs) for a program if the program has not been funded by Congress.

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

(1) to augment the funds made available for obligation by this Act for severance payments and other benefits and community assistance grants under section 4604 of the Atomic Energy Defense Act (50 U.S.C. 2704) unless the Department of Energy submits a reprogramming request to the appropriate congressional committees; or

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

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

SEC. 303. The unexpended balances of prior appropriations provided for activities in this Act may be available to the same appropriation accounts for such activities established pursuant to this title. Available balances may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 304. 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. 305. 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. 306. 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 2010 until the enactment of the Intelligence Authorization Act for fiscal year 2010.

SEC. 307. Of the funds made available by the Department of Energy for activities at Government-owned, contractor-operated laboratories funded in this Act or subsequent Energy and Water Development Appropriations Acts, the Secretary may authorize a specific amount, not to exceed 8 percent of such funds, to be used by such laboratories for laboratory directed research and development: *Provided*, That the Secretary may also authorize a specific amount not to exceed 4 percent of such funds, to be used by the plant manager of a covered nuclear weapons production plant or the manager of the Nevada Site Office for plant or site directed research and development.

SEC. 308. (a) In any fiscal year in which the Secretary of Energy determines that additional funds are needed to reimburse the costs of defined benefit pension plans for contractor employees, the Secretary may transfer not more than 1 percent from each appropriation made available in this and subsequent Energy and

Water Development Appropriation Acts to any other appropriation available to the Secretary in the same Act for such reimbursements.

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

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

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

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

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

SEC. 309. (a) Subject to subsection (b), no funds appropriated or otherwise made available by this Act or any other Act may be used to record transactions relating to the increase in borrowing authority or bonds outstanding at any time under the Federal Columbia River Transmission System Act (16 U.S.C. 838 et seq.) referred to in section 401 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 140) under a funding account, subaccount, or fund symbol other than the Bonneville Power Administration Fund Treasury account fund symbol.

(b) Funds appropriated or otherwise made available by this Act or any other Act may be used to ensure, for purposes of meeting any applicable reporting provisions of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 115), that the Bonneville Power Administration uses a fund symbol other than the Bonneville Power Administration Fund Treasury account fund symbol solely to report accrued expenditures of projects attributed by the Administrator of the Bonneville Power Administration to the increased borrowing authority.

(c) This section is effective for fiscal year 2010 and subsequent fiscal years.

SEC. 310. Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by adding at the end the following new subsection:

"(k) WAGE RATE REQUIREMENTS.—All laborers and mechanics employed by contractors and subcontractors in the performance

of construction work financed in whole or in part by a loan guaranteed under this title shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.".

SEC. 311. None of the funds made available by this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, Other Transaction Agreement, or to issue a letter of intent totaling in excess of $1,000,000, or to announce publicly the intention to make such an award, including a contract covered by the Federal Acquisition Regulation, unless the Secretary of Energy notifies the Committees on Appropriations of the Senate and the House of Representatives at least 3 full business days in advance of making such an award or issuing such a letter: *Provided*, That if the Secretary of the Department of Energy determines that compliance with this section would pose a substantial risk to human life, health, or safety, an award may be made without notification and the Committees on Appropriations of the Senate and the House of Representatives shall be notified not later than 5 full business days after such an award is made or letter issued.

SEC. 312. (a) ULTRA EFFICIENT VEHICLES.—Section 136 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting "an ultra efficient vehicle or" after "means"; and

(B) by adding at the end the following new paragraph:

"(5) ULTRA EFFICIENT VEHICLE.—The term 'ultra efficient vehicle' means a fully closed compartment vehicle designed to carry at least 2 adult passengers that achieves—

"(A) at least 75 miles per gallon while operating on gasoline or diesel fuel;

"(B) at least 75 miles per gallon equivalent while operating as a hybrid electric-gasoline or electric-diesel vehicle; or

"(C) at least 75 miles per gallon equivalent while operating as a fully electric vehicle.";

(2) in subsection (b)—

(A) by inserting ", ultra efficient vehicle manufacturers," after "automobile manufacturers";

(B) in paragraph (1)—

(i) by striking "or" at the end of subparagraph (A);

(ii) by striking "and" at the end of subparagraph (B) and inserting "or"; and

(iii) by adding at the end the following new subparagraph:

"(C) ultra efficient vehicles; and"; and

(C) in paragraph (2), by inserting ", ultra efficient vehicles," after "qualifying vehicles";

(3) in subsection (g), by inserting "or are utilized primarily for the manufacture of ultra efficient vehicles" after "20 years"; and

(4) in subsection (h)(1)(B), by striking "automobiles" the first place it appears and inserting "ultra efficient vehicles, automobiles,".

(b) RECONSIDERATION OF PRIOR APPLICATIONS.—The Secretary of Energy shall reconsider applications for assistance under section 136 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013) that were—

(1) timely filed under that section before January 1, 2009;

(2) rejected on the basis that the vehicles to which the proposal related were not advanced technology vehicles; and

(3) related to ultra efficient vehicles.

SEC. 313. (a) Except as provided in subsection (b), none of the funds appropriated or otherwise made available by this title for the Strategic Petroleum Reserve may be made available to any person that as of the enactment of this Act—

(1) is selling refined petroleum products valued at $1,000,000 or more to the Islamic Republic of Iran;

(2) is engaged in an activity valued at $1,000,000 or more that could contribute to enhancing the ability of the Islamic Republic of Iran to import refined petroleum products, including—

(A) providing ships or shipping services to deliver refined petroleum products to the Islamic Republic of Iran;

(B) underwriting or otherwise providing insurance or reinsurance for such an activity; or

(C) financing or brokering such an activity; or

(3) is selling, leasing, or otherwise providing to the Islamic Republic of Iran any goods, services, or technology valued at $1,000,000 or more that could contribute to the maintenance or expansion of the capacity of the Islamic Republic of Iran to produce refined petroleum products.

(b) The prohibition on the use of funds under subsection (a) shall not apply with respect to any contract entered into by the United States Government before the date of the enactment of this Act.

(c) If the Secretary determines a person made ineligible by this section has ceased the activities enumerated in (a)(1)–(3), that person shall no longer be ineligible under this section.

SEC. 314. Section 132 of the Energy and Water Development Appropriations Act of 2006 (119 Stat 2261) is amended—

(1) in subsection (a)(3), by striking "Corps of Engineers" and inserting "Southwestern Power Administration";

(2) by adding at the end of subsection (a) the following new paragraph:

"(5) PAYMENT TO NON-FEDERAL LICENSEE.—Southwestern Power Administration shall compensate the licensee of Federal Energy Regulatory Commission Project No. 2221 pursuant to paragraph (3) using receipts collected from the sale of Federal power and energy related services. Pursuant to paragraph (6), Southwestern Power Administration will begin collecting receipts in the Special Receipts and Disbursement account upon the date of enactment of this paragraph. Payment to the licensee of Federal Energy Regulatory Commission Project No. 2221 shall be paid as soon as adequate receipts are collected

in the Special Receipts and Disbursement Account to fully compensate the licensee, and in accordance with paragraph (2), such payment shall be considered non-reimbursable.";

(3) by adding at the end of subsection (a) the following new paragraph:

"(6) The Southwestern Power Administration shall compensate the licensee of Federal Energy Regulatory Commission Project No. 2221 in annual payments of not less than $5,000,000, until the licensee of Federal Energy Regulatory Commission Project No. 2221 is fully compensated pursuant to paragraph (3). At the end of each fiscal year subsequent to implementation, any remaining balance to be paid to the licensee of Project No. 2221 shall accrue interest at the 30-year U.S. Treasury bond rate in effect at the time of implementation of the White River Minimum Flows project.";

(4) by adding at the end of subsection (a) the following new paragraph:

"(7) ESTABLISHMENT OF SPECIAL RECEIPT AND DISBURSEMENT ACCOUNTS.—There is established in the Treasury of the United States a special receipt account and corresponding disbursement account to be made available to the Administrator of the Southwestern Power Administration to disburse pre-collected receipts from the sale of federal power and energy and related services. The accounts are authorized for the following uses:

"(A) Collect and disburse receipts for purchase power and wheeling expenses incurred by Southwestern Power Administration to purchase replacement power and energy as a result of implementation of the White River Minimum Flows project.

"(B) Collect and disburse receipts related to compensation of the licensee of Federal Energy Regulatory Commission Project No. 2221.

"(C) Said special receipt and disbursement account shall remain available for not more than 12 months after the date of full compensation of the licensee of Federal Energy Regulatory Commission Project No. 2221."; and

(5) by adding at the end of subsection (a) the following new paragraph:

"(8) TIME OF IMPLEMENTATION.—For purposes of paragraphs (3) and (4), 'time of implementation' shall mean the authorization of the special receipt account and corresponding disbursement account described in paragraph (7).".

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, $76,000,000, to remain available until expended.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–456, section 1441, $26,086,000, to remain available until expended.

DELTA REGIONAL AUTHORITY

SALARIES AND EXPENSES

For necessary expenses of the Delta Regional Authority and to carry out its activities, as authorized by the Delta Regional Authority Act of 2000, as amended, notwithstanding sections 382C(b)(2), 382F(d), 382M, and 382N of said Act, $13,000,000, to remain available until expended: *Provided*, That no funds in this Act shall be expended for the relocation of the Delta Regional Commission headquarters.

DENALI COMMISSION

For expenses of the Denali Commission including the purchase, construction, and acquisition of plant and capital equipment as necessary and other expenses, $11,965,000, to remain available until expended, notwithstanding the limitations contained in section 306(g) of the Denali Commission Act of 1998.

NORTHERN BORDER REGIONAL COMMISSION

For necessary expenses of the Northern Border Regional Commission in carrying out activities authorized by subtitle V of title 40, United States Code, $1,500,000, to remain available until expended.

SOUTHEAST CRESCENT REGIONAL COMMISSION

For necessary expenses of the Southeast Crescent Regional Commission in carrying out activities authorized by subtitle V of title 40, United States Code, $250,000, to remain available until expended.

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 $25,000), $1,056,000,000, to remain available until expended: *Provided*, That of the amount appropriated herein, $29,000,000 shall be derived from the Nuclear Waste Fund: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at $902,402,000 in fiscal year 2010 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 2010 so as to result in a final fiscal year 2010 appropriation estimated at not more than $153,598,000: *Provided further*, That of the amounts appropriated, $10,000,000 is provided to support university research and development in areas relevant to their respective organization's mission, and $5,000,000 is to support a Nuclear Science and Engineering Grant Program that will support multiyear projects that do not align with programmatic missions but are critical to maintaining the discipline of nuclear science and engineering.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $10,860,000, to remain available until expended: *Provided*, That revenues from licensing fees, inspection services, and other services and collections estimated at $9,774,000 in fiscal year 2010 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 2010 so as to result in a final fiscal year 2010 appropriation estimated at not more than $1,086,000.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100–203, section 5051, $3,891,000, to be derived from the Nuclear Waste Fund, and to remain available until expended.

OFFICE OF THE FEDERAL COORDINATOR FOR ALASKA NATURAL GAS TRANSPORTATION PROJECTS

For necessary expenses for the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects pursuant to the Alaska Natural Gas Pipeline Act of 2004, $4,466,000 until expended: *Provided*, That any fees, charges, or commissions received pursuant to section 802 of Public Law 110–140 in fiscal year 2010 in excess of $4,683,000 shall not be available for obligation until appropriated in a subsequent Act of Congress.

GENERAL PROVISIONS

SEC. 401. The Nuclear Regulatory Commission shall, not later than 60 days after the date of enactment of this Act, provide a report to the Committees on Appropriations of the House of Representatives and the Senate identifying barriers to and its recommendations for streamlining the issuance of a Combined Construction and Operating License for qualified new nuclear reactors.

SEC. 402. Section 382B of the Delta Regional Authority Act of 2000 is amended by deleting (c)(1) and inserting in lieu thereof

the following: "'(1) IN GENERAL—VOTING.—A decision by the Authority shall require the affirmative vote of the Federal cochairperson and a majority of the State members (not including any member representing a State that is delinquent under subsection (g)(2)(C)) to be effective.".

SEC. 403. The Nuclear Regulatory Commission may use funds made available for the necessary expenses of the Nuclear Regulatory Commission for the acquisition and lease of additional office space provided by the General Services Administration in accordance with the fourth and fifth provisos in the matter under the heading "Salaries and expenses" under the heading "Nuclear Regulatory Commission" under the heading "Independent agencies" of title IV of division C of the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 629).

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. To the extent practicable funds made available in this Act should be used to purchase light bulbs that are "Energy Star" qualified or have the "Federal Energy Management Program" designation.

SEC. 503. Title IV of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended by adding at the end of the title, the following new section 411:

"SEC. 411. Up to 0.5 percent of each amount appropriated to the Department of the Army and the Bureau of Reclamation in this title may be used for the expenses of management and oversight of the programs, grants, and activities funded by such appropriation, and may be transferred by the Head of the Federal Agency involved to any other appropriate account within the department for that purpose: *Provided,* That the Secretary will provide a report to the Committees on Appropriations of the House of Representatives and the Senate 30 days prior to the transfer: *Provided further,* That funds set aside under this section shall remain available for obligation until September 30, 2012.".

SEC. 504. (a) DEFINITIONS.—In this section:

(1) ADMINISTRATIVE EXPENSES.—The term "administrative expenses" has the meaning as determined by the Director under subsection (b)(2).

(2) AGENCY.—The term "agency"—

(A) means an agency as defined under section 1101 of title 31, United States Code, that is established in the executive branch and receives funding under this Act; and

(B) shall not include the District of Columbia government.

(3) DIRECTOR.—The term "Director" means the Director of the Office of Management and Budget.

(b) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—All agencies shall include a separate category for administrative expenses when submitting their appropriation requests to the Office of Management and Budget for fiscal year 2011 and each fiscal year thereafter.

(2) ADMINISTRATIVE EXPENSES DETERMINED.—In consultation with the agencies, the Director shall establish and revise as necessary a definition of administration expenses for the purposes of this section. All questions regarding the definition of administrative expenses shall be resolved by the Director.

(c) BUDGET SUBMISSION.—Each budget of the United States Government submitted under section 1105 of title 31, United States Code, for fiscal year 2011 and each fiscal year thereafter shall include the amount requested for each agency for administrative expenses.

SEC. 505. 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. 506. Specific projects contained in the report of the Committee on Appropriations of the House of Representatives accompanying this Act (H. Rept. 111–203) that are considered congressional earmarks for purposes of clause 9 of rule XXI of the Rules of the House of Representatives, when intended to be awarded to a for-profit entity, shall be awarded under a full and open competition.

SEC. 507. (a) The Continuing Appropriations Resolution, 2010 is amended—

(1) in subsections (a) and (b) of section 158, by striking "section 158" each place it appears and inserting "section 157"; and

(2) in section 162, by striking "sections 158 through 162" and inserting "sections 157 through 161".

(b) The amendments made by subsection (a) shall take effect as if included in the enactment of the Continuing Appropriations Resolution, 2010.

This Act may be cited as the "Energy and Water Development and Related Agencies Appropriations Act, 2010".

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.