

Union Calendar No. 68

112TH CONGRESS
1ST SESSION

H. R. 2354

[Report No. 112–118]

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2011

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

A BILL

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

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

8 TITLE I—CORPS OF ENGINEERS—CIVIL

9 DEPARTMENT OF THE ARMY

10 CORPS OF ENGINEERS—CIVIL

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

18 INVESTIGATIONS

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

1 Interior as reimbursable or nonreimbursable and collected
2 until fully repaid pursuant to the “Cleanup Program-Alternative
3 Repayment Plan” and the “SJVDP-Alternative
4 Repayment Plan” described in the report entitled “Repayment
5 Report, Kesterson Reservoir Cleanup Program and
6 San Joaquin Valley Drainage Program, February 1995”,
7 prepared by the Department of the Interior, Bureau of
8 Reclamation. Any future obligations of funds by the
9 United States relating to, or providing for, drainage service
10 or drainage studies for the San Luis Unit shall be fully
11 reimbursable by San Luis Unit beneficiaries of such service
12 or studies pursuant to Federal reclamation law.

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

18 **TITLE III—DEPARTMENT OF ENERGY**

19 ENERGY PROGRAMS

20 ENERGY EFFICIENCY AND RENEWABLE ENERGY

21 For Department of Energy expenses including the
22 purchase, construction, and acquisition of plant and capital
23 equipment, and other expenses necessary for energy
24 efficiency and renewable energy activities in carrying out
25 the purposes of the Department of Energy Organization

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

11 ELECTRICITY DELIVERY AND ENERGY RELIABILITY

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

21 NUCLEAR ENERGY

22 For Department of Energy expenses including the
23 purchase, construction, and acquisition of plant and cap-
24 ital equipment, and other expenses necessary for nuclear
25 energy activities in carrying out the purposes of the De-

1 partment of Energy Organization Act (42 U.S.C. 7101 et
2 seq.), including the acquisition or condemnation of any
3 real property or any facility or for plant or facility acquisi-
4 tion, construction, or expansion, and the purchase of not
5 more than 10 buses, all for replacement only,
6 \$733,633,000, to remain available until expended.

7 FOSSIL ENERGY RESEARCH AND DEVELOPMENT

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

1 NAVAL PETROLEUM AND OIL SHALE RESERVES

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

8 STRATEGIC PETROLEUM RESERVE

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

14 SPR PETROLEUM ACCOUNT

15 Notwithstanding sections 161 and 167 of the Energy
16 Policy and Conservation Act (42 U.S.C. 6241, 6247), the
17 Secretary of Energy shall sell \$500,000,000 in petroleum
18 products from the Reserve not later than March 1, 2012,
19 and shall deposit any proceeds from such sales in the Gen-
20 eral Fund of the Treasury: *Provided*, That during fiscal
21 year 2012 and hereafter, the quantity of petroleum prod-
22 ucts sold from the Reserve under the authority of this Act
23 may only be replaced using the authority provided in para-
24 graph (a)(1) or (3) of section 160 of the Energy Policy
25 and Conservation Act (42 U.S.C. 6240(a)(1) or (3)): *Pro-*

1 *vided further*, That unobligated balances in this account
2 shall be available to cover the costs of any sale under this
3 Act.

4 NORTHEAST HOME HEATING OIL RESERVE

5 (INCLUDING RESCISSION OF FUNDS)

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

20 ENERGY INFORMATION ADMINISTRATION

21 For necessary expenses in carrying out the activities
22 of the Energy Information Administration, \$105,000,000,
23 to remain available until expended.

1 NON-DEFENSE ENVIRONMENTAL CLEANUP

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

11 URANIUM ENRICHMENT DECONTAMINATION AND
12 DECOMMISSIONING FUND

13 For necessary expenses in carrying out uranium en-
14 richment facility decontamination and decommissioning,
15 remedial actions, and other activities of title II of the
16 Atomic Energy Act of 1954, and title X, subtitle A, of
17 the Energy Policy Act of 1992, \$449,000,000, to be de-
18 rived from the Uranium Enrichment Decontamination and
19 Decommissioning Fund, and not more than \$150,000,000,
20 to be derived from the barter, transfer, or sale of uranium
21 authorized under section 3112 of the USEC Privatization
22 Act (42 U.S.C. 2297h-10) or section 314 of the Energy
23 and Water Development Appropriations Act, 2006 (Public
24 Law 109-103), to remain available until expended: *Pro-*
25 *vided*, That proceeds from such barter, transfer, or sale

1 of uranium in excess of such amount shall not be available
2 until appropriated.

3 SCIENCE

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

15 NUCLEAR WASTE DISPOSAL

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

20 ADVANCED RESEARCH PROJECTS AGENCY—ENERGY

21 For necessary expenses in carrying out the activities
22 authorized by section 5012 of the America COMPETES
23 Act (42 U.S.C. 16538), \$100,000,000, to remain available
24 until expended.

1 TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE
2 PROGRAM

3 Subject to section 502 of the Congressional Budget
4 Act of 1974, for the cost of loan guarantees for renewable
5 energy or efficient end-use energy technologies under sec-
6 tion 1703 of the Energy Policy Act of 2005,
7 \$160,000,000, to remain available until expended: *Pro-*
8 *vided*, That the amounts provided in this section are in
9 addition to those provided in any other Act: *Provided fur-*
10 *ther*, That, notwithstanding section 1703(a)(2) of the En-
11 ergy Policy Act of 2005, funds appropriated for the cost
12 of loan guarantees are also available for projects for which
13 an application has been submitted to the Department of
14 Energy prior to February 24, 2011, in whole or in part,
15 for a loan guarantee under 1705 of the Energy Policy Act
16 of 2005: *Provided further*, That an additional amount for
17 necessary administrative expenses to carry out this Loan
18 Guarantee program, \$38,000,000 is appropriated, to re-
19 main available until expended: *Provided further*, That
20 \$38,000,000 of the fees collected pursuant to section
21 1702(h) of the Energy Policy Act of 2005 shall be credited
22 as offsetting collections to this account to cover adminis-
23 trative expenses and shall remain available until expended,
24 so as to result in a final fiscal year 2012 appropriations
25 from the general fund estimated at not more than \$0: *Pro-*

1 *vided further*, That fees collected under section 1702(h)
2 in excess of the amount appropriated for administrative
3 expenses shall not be available until appropriated: *Pro-*
4 *vided further*, That for amounts collected pursuant to sec-
5 tion 1702(b)(2) of the Energy Policy Act of 2005, the
6 source of such payment received from borrowers is not a
7 loan or other debt obligation that is guaranteed by the
8 Federal Government: *Provided further*, That none of the
9 loan guarantee authority made available in this paragraph
10 shall be available for commitments to guarantee loans for
11 any projects where funds, personnel, or property (tangible
12 or intangible) of any Federal agency, instrumentality, per-
13 sonnel or affiliated entity are expected to be used (directly
14 or indirectly) through acquisitions, contracts, demonstra-
15 tions, exchanges, grants, incentives, leases, procurements,
16 sales, other transaction authority, or other arrangements,
17 to support the project or to obtain goods or services from
18 the project: *Provided further*, That the previous proviso
19 shall not be interpreted as precluding the use of the loan
20 guarantee authority in this paragraph for commitments
21 to guarantee loans for projects as a result of such projects
22 benefiting from (1) otherwise allowable Federal income
23 tax benefits; (2) being located on Federal land pursuant
24 to a lease or right-of-way agreement for which all consider-
25 ation for all uses is (A) paid exclusively in cash, (B) depos-

1 nization Act (42 U.S.C. 7101 et seq.), including the hire
2 of passenger motor vehicles and official reception and rep-
3 resentation expenses not to exceed \$30,000,
4 \$221,514,000, to remain available until expended, plus
5 such additional amounts as necessary to cover increases
6 in the estimated amount of cost of work for others not-
7 withstanding the provisions of the Anti-Deficiency Act (31
8 U.S.C. 1511 et seq.): *Provided*, That such increases in
9 cost of work are offset by revenue increases of the same
10 or greater amount, to remain available until expended:
11 *Provided further*, That moneys received by the Department
12 for miscellaneous revenues estimated to total
13 \$111,883,000 in fiscal year 2012 may be retained and
14 used for operating expenses within this account, and may
15 remain available until expended, as authorized by section
16 201 of Public Law 95–238, notwithstanding the provisions
17 of 31 U.S.C. 3302: *Provided further*, That the sum herein
18 appropriated shall be reduced by the amount of miscella-
19 neous revenues received during 2012, and any related ap-
20 propriated receipt account balances remaining from prior
21 years' miscellaneous revenues, so as to result in a final
22 fiscal year 2012 appropriation from the general fund esti-
23 mated at not more than \$109,631,000.

1 OFFICE OF THE INSPECTOR GENERAL

2 For necessary expenses of the Office of the Inspector
3 General in carrying out the provisions of the Inspector
4 General Act of 1978, as amended, \$41,774,000, to remain
5 available until expended.

6 ATOMIC ENERGY DEFENSE ACTIVITIES

7 NATIONAL NUCLEAR SECURITY

8 ADMINISTRATION

9 WEAPONS ACTIVITIES

10 (INCLUDING RESCISSION OF FUNDS)

11 For Department of Energy expenses, including the
12 purchase, construction, and acquisition of plant and cap-
13 ital equipment and other incidental expenses necessary for
14 atomic energy defense weapons activities in carrying out
15 the purposes of the Department of Energy Organization
16 Act (42 U.S.C. 7101 et seq.), including the acquisition or
17 condemnation of any real property or any facility or for
18 plant or facility acquisition, construction, or expansion,
19 the purchase of not to exceed one ambulance and one air-
20 craft; \$7,131,993,000, to remain available until expended:
21 *Provided*, That of such amount not more than
22 \$139,281,000 may be made available for the B-61 Life
23 Extension Program until the Administrator for Nuclear
24 Security submits to the Committees on Appropriations of
25 the House of Representatives and the Senate the outcome

1 of its Phase 6.2a design definition and cost study: *Pro-*
2 *vided further*, That of the unobligated balances available
3 under this heading, \$40,332,000 are hereby rescinded:
4 *Provided further*, That no amounts may be rescinded from
5 amounts that were designated by the Congress as an
6 emergency requirement pursuant to the Concurrent Reso-
7 lution on the Budget or the Balanced Budget and Emer-
8 gency Deficit Control Act of 1985.

9 DEFENSE NUCLEAR NONPROLIFERATION

10 (INCLUDING RESCISSION OF FUNDS)

11 For Department of Energy expenses, including the
12 purchase, construction, and acquisition of plant and cap-
13 ital equipment and other incidental expenses necessary for
14 defense nuclear nonproliferation activities, in carrying out
15 the purposes of the Department of Energy Organization
16 Act (42 U.S.C. 7101 et seq.), including the acquisition or
17 condemnation of any real property or any facility or for
18 plant or facility acquisition, construction, or expansion,
19 and the purchase of not to exceed one passenger motor
20 vehicle for replacement only, \$2,086,770,000, to remain
21 available until expended: *Provided*, That of the unobli-
22 gated balances available under this heading, \$30,000,000
23 are hereby rescinded; *Provided further*, That no amounts
24 may be rescinded from amounts that were designated by
25 the Congress as an emergency requirement pursuant to

1 the Concurrent Resolution on the Budget or the Balanced
2 Budget and Emergency Deficit Control Act of 1985.

3 NAVAL REACTORS

4 For Department of Energy expenses necessary for
5 naval reactors activities to carry out the Department of
6 Energy Organization Act (42 U.S.C. 7101 et seq.), includ-
7 ing the acquisition (by purchase, condemnation, construc-
8 tion, or otherwise) of real property, plant, and capital
9 equipment, facilities, and facility expansion,
10 \$1,030,600,000, to remain available until expended.

11 OFFICE OF THE ADMINISTRATOR

12 For necessary expenses of the Office of the Adminis-
13 trator in the National Nuclear Security Administration,
14 including official reception and representation expenses
15 not to exceed \$12,000, \$420,000,000, to remain available
16 until expended.

17 ENVIRONMENTAL AND OTHER DEFENSE

18 ACTIVITIES

19 DEFENSE ENVIRONMENTAL CLEANUP

20 For Department of Energy expenses, including the
21 purchase, construction, and acquisition of plant and cap-
22 ital equipment and other expenses necessary for atomic
23 energy defense environmental cleanup activities in car-
24 rying out the purposes of the Department of Energy Orga-
25 nization Act (42 U.S.C. 7101 et seq.), including the acqui-

1 sition or condemnation of any real property or any facility
2 or for plant or facility acquisition, construction, or expansion,
3 sion, and the purchase of not to exceed one ambulance
4 and one fire truck for replacement only, \$4,937,619,000,
5 to remain available until expended.

6 OTHER DEFENSE ACTIVITIES

7 For Department of Energy expenses, including the
8 purchase, construction, and acquisition of plant and capital
9 equipment and other expenses, necessary for atomic
10 energy defense, other defense activities, and classified activities,
11 in carrying out the purposes of the Department
12 of Energy Organization Act (42 U.S.C. 7101 et seq.), including
13 the acquisition or condemnation of any real property or any
14 facility or for plant or facility acquisition, construction, or
15 expansion, and the purchase of not to exceed
16 10 passenger motor vehicles for replacement only,
17 \$814,000,000, to remain available until expended.

18 POWER MARKETING ADMINISTRATIONS

19 BONNEVILLE POWER ADMINISTRATION FUND

20 Expenditures from the Bonneville Power Administration
21 Fund, established pursuant to Public Law 93-454,
22 are approved for the Kootenai River Native Fish Conservation
23 Aquaculture Program, Lolo Creek Permanent Weir Facility,
24 and Improving Anadromous Fish production on the Warm Springs
25 Reservation, and, in addition,

1 for official reception and representation expenses in an
2 amount not to exceed \$3,000. During fiscal year 2012,
3 no new direct loan obligations may be made from such
4 Fund.

5 OPERATION AND MAINTENANCE, SOUTHEASTERN POWER
6 ADMINISTRATION

7 For necessary expenses of operation and maintenance
8 of power transmission facilities and of marketing electric
9 power and energy, including transmission wheeling and
10 ancillary services pursuant to section 5 of the Flood Con-
11 trol Act of 1944 (16 U.S.C. 825s), as applied to the south-
12 eastern power area, \$8,428,000, to remain available until
13 expended: *Provided*, That notwithstanding 31 U.S.C. 3302
14 and section 5 of the Flood Control Act of 1944, up to
15 \$8,428,000 collected by the Southeastern Power Adminis-
16 tration from the sale of power and related services shall
17 be credited to this account as discretionary offsetting col-
18 lections, to remain available until expended for the sole
19 purpose of funding the annual expenses of the South-
20 eastern Power Administration: *Provided further*, That the
21 sum herein appropriated for annual expenses shall be re-
22 duced as collections are received during the fiscal year so
23 as to result in a final fiscal year 2012 appropriation esti-
24 mated at not more than \$0: *Provided further*, That not-
25 withstanding 31 U.S.C. 3302, up to \$100,162,000 col-

1 lected by the Southeastern Power Administration pursu-
2 ant to the Flood Control Act of 1944 to recover purchase
3 power and wheeling expenses shall be credited to this ac-
4 count as offsetting collections, to remain available until
5 expended for the sole purpose of making purchase power
6 and wheeling expenditures: *Provided further*, That for pur-
7 poses of this appropriation, annual expenses means ex-
8 penditures that are generally recovered in the same year
9 that they are incurred (excluding purchase power and
10 wheeling expenses).

11 OPERATION AND MAINTENANCE, SOUTHWESTERN
12 POWER ADMINISTRATION

13 For necessary expenses of operation and maintenance
14 of power transmission facilities and of marketing electric
15 power and energy, for construction and acquisition of
16 transmission lines, substations and appurtenant facilities,
17 and for administrative expenses, including official recep-
18 tion and representation expenses in an amount not to ex-
19 ceed \$1,500 in carrying out section 5 of the Flood Control
20 Act of 1944 (16 U.S.C. 825s), as applied to the South-
21 western Power Administration, \$45,010,000, to remain
22 available until expended: *Provided*, That notwithstanding
23 31 U.S.C. 3302 and section 5 of the Flood Control Act
24 of 1944 (16 U.S.C. 825s), up to \$33,118,000 collected
25 by the Southwestern Power Administration from the sale

1 of power and related services shall be credited to this ac-
2 count as discretionary offsetting collections, to remain
3 available until expended, for the sole purpose of funding
4 the annual expenses of the Southwestern Power Adminis-
5 tration: *Provided further*, That the sum herein appro-
6 priated for annual expenses shall be reduced as collections
7 are received during the fiscal year so as to result in a final
8 fiscal year 2012 appropriation estimated at not more than
9 \$11,892,000: *Provided further*, That, notwithstanding 31
10 U.S.C. 3302, up to \$40,000,000 collected by the South-
11 western Power Administration pursuant to the Flood Con-
12 trol Act of 1944 to recover purchase power and wheeling
13 expenses shall be credited to this account as offsetting col-
14 lections, to remain available until expended for the sole
15 purpose of making purchase power and wheeling expendi-
16 tures: *Provided further*, That for purposes of this appro-
17 priation, annual expenses means expenditures that are
18 generally recovered in the same year that they are in-
19 curred (excluding purchase power and wheeling expenses).

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

23 For carrying out the functions authorized by title III,
24 section 302(a)(1)(E) of the Act of August 4, 1977 (42
25 U.S.C. 7152), and other related activities including con-

1 servation and renewable resources programs as author-
2 ized, including official reception and representation ex-
3 penses in an amount not to exceed \$1,500; \$285,900,000,
4 to remain available until expended, of which \$278,856,000
5 shall be derived from the Department of the Interior Rec-
6 lamation Fund: *Provided*, That notwithstanding 31 U.S.C.
7 3302, section 5 of the Flood Control Act of 1944 (16
8 U.S.C. 825s), and section 1 of the Interior Department
9 Appropriation Act, 1939 (43 U.S.C. 392a), up to
10 \$189,932,000 collected by the Western Area Power Ad-
11 ministration from the sale of power and related services
12 shall be credited to this account as discretionary offsetting
13 collections, to remain available until expended, for the sole
14 purpose of funding the annual expenses of the Western
15 Area Power Administration: *Provided further*, That the
16 sum herein appropriated for annual expenses shall be re-
17 duced as collections are received during the fiscal year so
18 as to result in a final fiscal year 2012 appropriation esti-
19 mated at not more than \$95,968,000, of which
20 \$88,924,000 is derived from the Reclamation Fund: *Pro-*
21 *vided further*, That of the amount herein appropriated, not
22 more than \$3,375,000 is for deposit into the Utah Rec-
23 lamation Mitigation and Conservation Account pursuant
24 to title IV of the Reclamation Projects Authorization and
25 Adjustment Act of 1992: *Provided further*, That notwith-

1 standing 31 U.S.C. 3302, up to \$306,541,000 collected
2 by the Western Area Power Administration pursuant to
3 the Flood Control Act of 1944 and the Reclamation
4 Project Act of 1939 to recover purchase power and wheel-
5 ing expenses shall be credited to this account as offsetting
6 collections, to remain available until expended for the sole
7 purpose of making purchase power and wheeling expendi-
8 tures: *Provided further*, That for purposes of this appro-
9 priation, annual expenses means expenditures that are
10 generally recovered in the same year that they are in-
11 curred (excluding purchase power and wheeling expenses).

12 FALCON AND AMISTAD OPERATING AND MAINTENANCE

13 FUND

14 For operation, maintenance, and emergency costs for
15 the hydroelectric facilities at the Falcon and Amistad
16 Dams, \$4,169,000, to remain available until expended,
17 and to be derived from the Falcon and Amistad Operating
18 and Maintenance Fund of the Western Area Power Ad-
19 ministration, as provided in section 2 of the Act of June
20 18, 1954 (68 Stat. 255) as amended: *Provided*, That not-
21 withstanding the provisions of that Act and of 31 U.S.C.
22 3302, up to \$3,949,000 collected by the Western Area
23 Power Administration from the sale of power and related
24 services from the Falcon and Amistad Dams shall be cred-
25 ited to this account as discretionary offsetting collections,

1 to remain available until expended for the sole purpose
2 of funding the annual expenses of the hydroelectric facili-
3 ties of these Dams and associated Western Area Power
4 Administration activities: *Provided further*, That the sum
5 herein appropriated for annual expenses shall be reduced
6 as collections are received during the fiscal year so as to
7 result in a final fiscal year 2012 appropriation estimated
8 at not more than \$220,000: *Provided further*, That for
9 purposes of this appropriation, annual expenses means ex-
10 penditures that are generally recovered in the same year
11 that they are incurred.

12 FEDERAL ENERGY REGULATORY COMMISSION

13 SALARIES AND EXPENSES

14 For necessary expenses of the Federal Energy Regu-
15 latory Commission to carry out the provisions of the De-
16 partment of Energy Organization Act (42 U.S.C. 7101 et
17 seq.), including services as authorized by 5 U.S.C. 3109,
18 the hire of passenger motor vehicles, and official reception
19 and representation expenses not to exceed \$3,000,
20 \$304,600,000, to remain available until expended: *Pro-*
21 *vided*, That notwithstanding any other provision of law,
22 not to exceed \$304,600,000 of revenues from fees and an-
23 nual charges, and other services and collections in fiscal
24 year 2012 shall be retained and used for necessary ex-
25 penses in this account, and shall remain available until

1 expended: *Provided further*, That the sum herein appro-
2 priated from the general fund shall be reduced as revenues
3 are received during fiscal year 2012 so as to result in a
4 final fiscal year 2012 appropriation from the general fund
5 estimated at not more than \$0.

6 **GENERAL PROVISIONS, DEPARTMENT OF**
7 **ENERGY**

8 (INCLUDING TRANSFERS OF FUNDS)

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

18 (b)(1) Except as provided in paragraph (2), the De-
19 partment of Energy may not, with respect to any program,
20 project, or activity that uses budget authority made avail-
21 able in this title under the heading "Department of En-
22 ergy—Energy Programs", enter into a contract, award a
23 grant, or enter into a cooperative agreement that obligates
24 the Government in excess of the budget authority available
25 under such heading for such purpose, or that is properly

1 chargeable to budget authority of a future fiscal year be-
2 fore such budget authority is available, regardless of
3 whether the contract, grant, or cooperative agreement in-
4 cludes a clause conditioning the Government's obligation
5 on the availability of such budget authority.

6 (2) Paragraph (1) shall not apply with respect to
7 major capital projects.

8 (c) Except as provided in this section, the amounts
9 made available by this Act for the Department of Energy
10 shall be expended as authorized by law for the projects
11 and activities specified in the text and the "Bill" column
12 in the "Comparative Statement of New Budget
13 (Obligational) Authority for 2011 and Budget Requests
14 and Amounts Recommended in the Bill for 2012" included
15 under the heading "Title III—Department of Energy" in
16 the report of the Committee on Appropriations of the
17 House of Representatives to accompany this Act.

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

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

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

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

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

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

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

13 (e) The Secretary of Energy and the Administrator
14 for Nuclear Security may jointly waive the restrictions
15 under subsection (a) and subsection (d) on a case-by-case
16 basis by certifying to the Committees on Appropriations
17 of the House of Representatives and the Senate that it
18 is in the national security interest to do so.

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

21 (1) to augment the funds made available for ob-
22 ligation by this Act for severance payments and
23 other benefits and community assistance grants
24 under section 4604 of the Atomic Energy Defense
25 Act (50 U.S.C. 2704) unless the Department of En-

1 ergy submits a reprogramming request to the appro-
2 priate congressional committees; or

3 (2) to provide enhanced severance payments or
4 other benefits for employees of the Department of
5 Energy under section 4604; or

6 (3) develop or implement a workforce restruc-
7 turing plan that covers employees of the Department
8 of Energy.

9 SEC. 303. The unexpended balances of prior appro-
10 priations provided for activities in this Act may be avail-
11 able to the same appropriation accounts for such activities
12 established pursuant to this title. Available balances may
13 be merged with funds in the applicable established ac-
14 counts and thereafter may be accounted for as one fund
15 for the same time period as originally enacted.

16 SEC. 304. None of the funds in this or any other Act
17 for the Administrator of the Bonneville Power Administra-
18 tion may be used to enter into any agreement to perform
19 energy efficiency services outside the legally defined Bon-
20 neville service territory, with the exception of services pro-
21 vided internationally, including services provided on a re-
22 imbursable basis, unless the Administrator certifies in ad-
23 vance that such services are not available from private sec-
24 tor businesses.

1 SEC. 305. When the Department of Energy makes
2 a user facility available to universities or other potential
3 users, or seeks input from universities or other potential
4 users regarding significant characteristics or equipment in
5 a user facility or a proposed user facility, the Department
6 shall ensure broad public notice of such availability or
7 such need for input to universities and other potential
8 users. When the Department of Energy considers the par-
9 ticipation of a university or other potential user as a for-
10 mal partner in the establishment or operation of a user
11 facility, the Department shall employ full and open com-
12 petition in selecting such a partner. For purposes of this
13 section, the term “user facility” includes, but is not lim-
14 ited to: (1) a user facility as described in section
15 2203(a)(2) of the Energy Policy Act of 1992 (42 U.S.C.
16 13503(a)(2)); (2) a National Nuclear Security Adminis-
17 tration Defense Programs Technology Deployment Cen-
18 ter/User Facility; and (3) any other Departmental facility
19 designated by the Department as a user facility.

20 SEC. 306. Funds appropriated by this or any other
21 Act, or made available by the transfer of funds in this
22 Act, for intelligence activities are deemed to be specifically
23 authorized by the Congress for purposes of section 504
24 of the National Security Act of 1947 (50 U.S.C. 414) dur-

1 ing fiscal year 2012 until the enactment of the Intelligence
2 Authorization Act for Fiscal Year 2012.

3 SEC. 307. (a) In any fiscal year in which the Sec-
4 retary of Energy determines that additional funds are
5 needed to reimburse the costs of defined benefit pension
6 plans for contractor employees, the Secretary may transfer
7 not more than 1 percent of an appropriation made avail-
8 able in this or any subsequent Energy and Water Develop-
9 ment Appropriations Act to any other appropriation made
10 available to the Secretary by such Act for such reimburse-
11 ment.

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

20 (c) In carrying out a transfer under this section, the
21 Secretary shall use each appropriation made available to
22 the Department in that fiscal year as a source for the
23 transfer, and shall reduce each appropriation by an equal
24 percentage, except that appropriations for which the Sec-
25 retary determines there exists a need for additional funds

1 for pension plan costs in that fiscal year, as well as appro-
2 priations made available for the Power Marketing Admin-
3 istrations, the loan guarantee program under title XVII
4 of the Energy Policy Act of 2005, and the Federal Energy
5 Regulatory Commission, shall not be subject to this re-
6 quirement.

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

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

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

21 SEC. 308. None of the funds made available in this
22 title shall be used for the construction of facilities classi-
23 fied as high-hazard nuclear facilities under 10 CFR Part
24 830 unless independent oversight is conducted by the Of-

1 fice of Health, Safety, and Security to ensure the project
2 is in compliance with nuclear safety requirements.

3 SEC. 309. Plant or construction projects for which
4 amounts are made available under this and subsequent ap-
5 propriation Acts with an estimated cost of less than
6 \$10,000,000 are considered for purposes of section 4703
7 of the Atomic Energy Defense Act (50 U.S.C. 2743) as
8 a plant project for which the approved total estimated cost
9 does not exceed the minor construction threshold and for
10 purposes of section 4704(d) of such Act (50 U.S.C.
11 2744(d)) as a construction project with an estimated cost
12 of less than a minor construction threshold.

13 SEC. 310. None of the funds made available in this
14 title may be used to approve critical decision-2 or critical
15 decision-3 under Department of Energy Order 413.3B, or
16 any successive departmental guidance, for construction
17 projects where the total project cost exceeds
18 \$100,000,000, until a separate independent cost estimate
19 has been developed for the project for that critical deci-
20 sion.

21 SEC. 311. None of the funds made available in this
22 title may be used to make a grant allocation, discretionary
23 grant award, discretionary contract award, or Other
24 Transaction Agreement, or to issue a letter of intent, to-
25 taling in excess of \$1,000,000, or to announce publicly the

1 intention to make such an allocation, award, or Agree-
2 ment, or to issue such a letter, including a contract cov-
3 ered by the Federal Acquisition Regulation, unless the
4 Secretary of Energy notifies the Committees on Appro-
5 priations of the Senate and the House of Representatives
6 at least 3 full business days in advance of making such
7 an allocation, award, or Agreement, or issuing such a let-
8 ter: *Provided*, That if the Secretary of Energy determines
9 that compliance with this section would pose a substantial
10 risk to human life, health, or safety, an allocation, award,
11 or Agreement may be made, or a letter may be issued,
12 without advance notification, and the Secretary shall no-
13 tify the Committees on Appropriations of the Senate and
14 the House of Representatives not later than 5 full business
15 days after the date on which such an allocation, award,
16 or Agreement is made or letter issued.

17 SEC. 312. None of the funds made available by this
18 title may be used to make a final or conditional loan guar-
19 antee award unless the Secretary of Energy provides noti-
20 fication of the award, including the proposed subsidy cost,
21 to the Committees on Appropriations of the Senate and
22 the House of Representatives at least three full business
23 days in advance of such award.

24 SEC. 313. None of the funds included in this title
25 for the Department of Energy shall be made available to

1 initiate, administer, promulgate, or enforce any “signifi-
2 cant regulatory action” as defined by Executive Order
3 12866 unless the Committee on Appropriations has been
4 notified not later than 30 days before the issuance of such
5 action.

6 TITLE IV—INDEPENDENT AGENCIES

7 APPALACHIAN REGIONAL COMMISSION

8 For expenses necessary to carry out the programs au-
9 thorized by the Appalachian Regional Development Act of
10 1965, for necessary expenses for the Federal Co-Chairman
11 and the Alternate on the Appalachian Regional Commis-
12 sion, for payment of the Federal share of the administra-
13 tive expenses of the Commission, including services as au-
14 thorized by 5 U.S.C. 3109, and hire of passenger motor
15 vehicles, \$68,400,000, to remain available until expended.

16 DEFENSE NUCLEAR FACILITIES SAFETY BOARD

17 SALARIES AND EXPENSES

18 For necessary expenses of the Defense Nuclear Fa-
19 cilities Safety Board in carrying out activities authorized
20 by the Atomic Energy Act of 1954, as amended by Public
21 Law 100–456, section 1441, \$29,130,000, to remain
22 available until expended.

1 pended, for emergency expenses for repair of damage
2 caused by the storm and flood events occurring in 2011:

3 (1) “Construction”, \$376,000.

4 (2) “Mississippi River and Tributaries”,
5 \$589,505,000.

6 (3) “Operation and Maintenance”,
7 \$204,927,000.

8 (4) “Flood Control and Coastal Emergencies”,
9 \$233,876,400.

10 (b) With respect to each amount transferred in sub-
11 section (a), the Chief of Engineers, acting through the As-
12 sistant Secretary of the Army for Civil Works, shall pro-
13 vide, at a minimum, a weekly report to the Committees
14 on Appropriations of the House of Representatives and the
15 Senate detailing the allocation and obligation of such
16 amount, beginning not later than one week after the date
17 of the enactment of this Act.

18 (c) Each amount transferred in subsection (a) is des-
19 ignated as an emergency pursuant to section 3(e)(1) of
20 H. Res. 5 (112th Congress).

21 TITLE VI—GENERAL PROVISIONS

22 SEC. 601. None of the funds appropriated by this Act
23 may be used in any way, directly or indirectly, to influence
24 congressional action on any legislation or appropriation
25 matters pending before Congress, other than to commu-

1 nicate to Members of Congress as described in 18 U.S.C.
2 1913.

3 SEC. 602. None of the funds made available in this
4 Act may be transferred to any department, agency, or in-
5 strumentality of the United States Government, except
6 pursuant to a transfer made by, or transfer authority pro-
7 vided, in this Act or any other appropriation Act.

8 SEC. 603. None of the funds appropriated or other-
9 wise made available by this Act may be obligated by any
10 covered executive agency in contravention of the certifi-
11 cation requirement of section 6(b) of the Iran Sanctions
12 Act of 1996, as included in the revisions to the Federal
13 Acquisition Regulation pursuant to such section.

14 SEC. 604. None of the funds made available in this
15 Act may be used to conduct closure of adjudicatory func-
16 tions, technical review, or support activities associated
17 with the Yucca Mountain geologic repository license appli-
18 cation until the Nuclear Regulatory Commission reverses
19 ASLB decision LBP-10-11, or for actions that irrevocably
20 remove the possibility that Yucca Mountain may be a re-
21 pository option in the future.

22 SEC. 605. None of the funds made available under
23 this Act may be expended for any new hire by any Federal
24 agency funded in this Act that is not verified through the
25 E-Verify Program established under section 403(a) of the

1 Illegal Immigration Reform and Immigrant Responsibility
2 Act of 1996 (8 U.S.C. 1324a note).

3 SEC. 606. None of the funds made available by this
4 Act may be used to enter into a contract, memorandum
5 of understanding, or cooperative agreement with, make a
6 grant to, or provide a loan or loan guarantee to, any cor-
7 poration that was convicted (or had an officer or agent
8 of such corporation acting on behalf of the corporation
9 convicted) of a felony criminal violation under any Federal
10 law within the preceding 24 months.

11 SEC. 607. None of the funds made available by this
12 Act may be used to enter into a contract, memorandum
13 of understanding, or cooperative agreement with, make a
14 grant to, or provide a loan or loan guarantee to, any cor-
15 poration that any unpaid Federal tax liability that has
16 been assessed, for which all judicial and administrative
17 remedies have been exhausted or have lapsed, and that
18 is not being paid in a timely manner pursuant to an agree-
19 ment with the authority responsible for collecting the tax
20 liability.

21 SPENDING REDUCTION ACCOUNT

22 SEC. 608. The amount by which the applicable alloca-
23 tion of new budget authority made by the Committee on
24 Appropriations of the House of Representatives under sec-

1 tion 302(b) of the Congressional Budget Act of 1974 ex-
2 ceeds the amount of proposed new budget authority is \$0.

3 This Act may be cited as the “Energy and Water De-
4 velopment and Related Agencies Appropriations Act,
5 2012”.

Union Calendar No. 68

112TH CONGRESS
1ST SESSION

H. R. 2354

[Report No. 112-118]

A BILL

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

JUNE 24, 2011

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