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112TH CONGRESS
1ST SESSION

H. R. 2354

[Report No. 112-75]

IN THE SENATE OF THE UNITED STATES

JULY 18, 2011

Received; read twice and referred to the Committee on Appropriations

SEPTEMBER 7, 2011

Reported by Mrs. FEINSTEIN, with an amendment

[Strike out all after the enacting clause and insert the part printed in italie]

AN ACT

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:~~

1 This Act may be cited as the “Energy and Water
2 Development and Related Agencies Appropriations Act,
3 2012”.

4 *That the following sums are appropriated, out of any*
5 *money in the Treasury not otherwise appropriated, for en-*
6 *ergy and water development and related agencies for the*
7 *fiscal year ending September 30, 2012, and for other pur-*
8 *poses, namely:*

9 *TITLE I*

10 *CORPS OF ENGINEERS—CIVIL*

11 *DEPARTMENT OF THE ARMY*

12 *CORPS OF ENGINEERS—CIVIL*

13 *The following appropriations shall be expended under*
14 *the direction of the Secretary of the Army and the super-*
15 *vision of the Chief of Engineers for authorized civil func-*
16 *tions of the Department of the Army pertaining to rivers*
17 *and harbors, flood and storm damage reduction, short pro-*
18 *tection, aquatic ecosystem restoration, and related efforts.*

19 *GENERAL INVESTIGATIONS*

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

1 *committee on Appropriations of the House of Representa-*
2 *tives and the Committee on Appropriations of the Senate*
3 *a report that describes the status of efforts to help facilitate*
4 *and improve the water transfers within the Central Valley*
5 *Project and water transfers between the Central Valley*
6 *Project and other water projects in the State of California;*
7 *evaluates potential effects of this Act on Federal programs,*
8 *Indian tribes, Central Valley Project operations, the envi-*
9 *ronment, groundwater aquifers, refuges, and communities;*
10 *and provides recommendations on ways to facilitate and*
11 *improve the process for these transfers.*

12 *SEC. 209. Section 10009(c)(2) of the San Joaquin*
13 *River Restoration Settlement Act (Public Law 111–11; 123*
14 *Stat. 1356) is amended by striking “October 1, 2019, all*
15 *funds in the Fund shall be available for expenditure without*
16 *further appropriation.” and inserting “October 1, 2014, all*
17 *funds in the Fund shall be available for expenditure on an*
18 *annual basis in an amount not to exceed \$40,000,000 with-*
19 *out further appropriation.” in lieu thereof.*

20 **TITLE III**

21 **DEPARTMENT OF ENERGY**

22 **ENERGY PROGRAMS**

23 **ENERGY EFFICIENCY AND RENEWABLE ENERGY**

24 *For Department of Energy expenses including the pur-*
25 *chase, construction, and acquisition of plant and capital*

1 *equipment, and other expenses necessary for energy effi-*
2 *ciency and renewable energy activities in carrying out the*
3 *purposes of the Department of Energy Organization Act (42*
4 *U.S.C. 7101 et seq.), including the acquisition or con-*
5 *demnation of any real property or any facility or for plant*
6 *or facility acquisition, construction, or expansion,*
7 *\$1,795,641,000, to remain available until expended: Pro-*
8 *vided, That \$165,000,000 shall be available until September*
9 *30, 2013 for program direction: Provided further, That of*
10 *the amount appropriated, the Secretary may use not more*
11 *than \$170,000,000 for activities of the Department of En-*
12 *ergy pursuant to the Defense Production Act of 1950 (50*
13 *U.S.C. App. 2061, et seq.): Provided further, That within*
14 *12 months of the date of enactment, the Secretary shall ini-*
15 *tiate separate rulemakings to establish efficiency standards*
16 *for televisions and set top television boxes.*

17 *ELECTRICITY DELIVERY AND ENERGY RELIABILITY*

18 *For Department of Energy expenses including the pur-*
19 *chase, construction, and acquisition of plant and capital*
20 *equipment, and other expenses necessary for electricity de-*
21 *livery and energy reliability activities in carrying out the*
22 *purposes of the Department of Energy Organization Act (42*
23 *U.S.C. 7101 et seq.), including the acquisition or con-*
24 *demnation of any real property or any facility or for plant*
25 *or facility acquisition, construction, or expansion,*

1 \$141,010,000, to remain available until expended: Pro-
2 vided, That \$27,010,000 shall be available until September
3 30, 2013 for program direction.

4 *NUCLEAR ENERGY*

5 *For Department of Energy expenses including the pur-*
6 *chase, construction, and acquisition of plant and capital*
7 *equipment, and other expenses necessary for nuclear energy*
8 *activities in carrying out the purposes of the Department*
9 *of Energy Organization Act (42 U.S.C. 7101 et seq.), in-*
10 *cluding the acquisition or condemnation of any real prop-*
11 *erty or any facility or for plant or facility acquisition, con-*
12 *struction, or expansion, and the purchase of not more than*
13 *10 buses, all for replacement only, \$583,834,000, to remain*
14 *available until expended: Provided, That \$86,279,000 shall*
15 *be available until September 30, 2013 for program direc-*
16 *tion: Provided further, That, notwithstanding any other*
17 *provision of law, the Department shall develop a strategy*
18 *within 3 months of the publication of the final report of*
19 *the Blue Ribbon Commission on America's Nuclear Future*
20 *to manage spent nuclear fuel and other nuclear waste at*
21 *consolidated storage facilities and permanent repositories*
22 *that can be implemented as expeditiously as possible.*

1 *rent resolution on the budget or the Balanced Budget and*
2 *Emergency Deficit Control Act of 1985.*

3 *NAVAL PETROLEUM AND OIL SHALE RESERVES*

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

10 *STRATEGIC PETROLEUM RESERVE*

11 *For necessary expenses for Strategic Petroleum Reserve*
12 *facility development and operations and program manage-*
13 *ment activities pursuant to the Energy Policy and Con-*
14 *servation Act of 1975, as amended (42 U.S.C. 6201 et seq.),*
15 *\$192,704,000, to remain available until expended.*

16 *SPR PETROLEUM ACCOUNT*

17 *Notwithstanding sections 161 and 167 of the Energy*
18 *Policy and Conservation Act (42 U.S.C. 6241, 6247), the*
19 *Secretary of Energy shall sell \$500,00,000 in petroleum*
20 *products from the Reserve not later than March 1, 2012,*
21 *and shall deposit any proceeds from such sales in the Gen-*
22 *eral Fund of the Treasury: Provided, That paragraphs*
23 *(a)(1) and (2) of section 160 of the Energy Policy and Con-*
24 *servation Act of 1975 (42 U.S.C. 6240(a)(1) and (2)) are*
25 *hereby repealed: Provided further, That unobligated bal-*

1 *ances in this account shall be available to cover the costs*
2 *of any sale under this Act.*

3 *NORTHEAST HOME HEATING OIL RESERVE*

4 *(INCLUDING RESCISSION)*

5 *For necessary expenses for Northeast Home Heating*
6 *Oil Reserve storage, operation, and management activities*
7 *pursuant to the Energy Policy and Conservation Act,*
8 *\$10,119,000, to remain available until expended: Provided,*
9 *That amounts net of the purchase of 1 million barrels of*
10 *petroleum distillates in fiscal year 2011; costs related to*
11 *transportation, delivery, and storage; and sales of petro-*
12 *leum distillate from the Reserve under section 182 of the*
13 *Energy Policy and Conservation Act of 1975 (42 U.S.C.*
14 *6250a) are hereby rescinded.*

15 *ENERGY INFORMATION ADMINISTRATION*

16 *For necessary expenses in carrying out the activities*
17 *of the Energy Information Administration, \$105,000,000,*
18 *to remain available until expended.*

19 *NON-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 non-defense*
23 *environmental cleanup activities in carrying out the pur-*
24 *poses of the Department of Energy Organization Act (42*
25 *U.S.C. 7101 et seq.), including the acquisition or con-*

1 *demnation of any real property or any facility or for plant*
2 *or facility acquisition, construction, or expansion,*
3 *\$219,121,000, to remain available until expended.*

4 *URANIUM ENRICHMENT DECONTAMINATION AND*
5 *DECOMMISSIONING FUND*

6 *For necessary expenses in carrying out uranium en-*
7 *richment facility decontamination and decommissioning,*
8 *remedial actions, and other activities of title II of the Atom-*
9 *ic Energy Act of 1954, and title X, subtitle A, of the Energy*
10 *Policy Act of 1992, \$429,000,000, to be derived from the*
11 *Uranium Enrichment Decontamination and Decommis-*
12 *sioning Fund, to remain available until expended.*

13 *SCIENCE*

14 *For Department of Energy expenses including the pur-*
15 *chase, construction, and acquisition of plant and capital*
16 *equipment, and other expenses necessary for science activi-*
17 *ties in carrying out the purposes of the Department of En-*
18 *ergy Organization Act (42 U.S.C. 7101 et seq.), including*
19 *the acquisition or condemnation of any real property or*
20 *facility or for plant or facility acquisition, construction, or*
21 *expansion, and purchase of not more than 49 passenger*
22 *motor vehicles for replacement only, including one ambu-*
23 *lance and one bus, \$4,842,665,000, to remain available*
24 *until expended: Provided, That \$180,786,000 shall be avail-*
25 *able until September 30, 2013 for program direction.*

1 of 2005 shall be credited as offsetting collections to this ac-
2 count to cover administrative expenses and shall remain
3 available until expended, so as to result in a final fiscal
4 year 2011 appropriations from the general fund estimated
5 at not more than \$0: Provided further, That fees collected
6 under section 1702(h) in excess of the amount appropriated
7 for administrative expenses shall not be available until ap-
8 propriated: Provided further, That for amounts collected
9 pursuant to section 1702(b)(2) of the Energy Policy Act of
10 2005, the source of such payment received from borrowers
11 is not a loan or other debt obligation that is guaranteed
12 by the Federal Government: Provided further, That pursu-
13 ant to section 1702(b)(2) of the Energy Policy Act of 2005,
14 no appropriations are available to pay the subsidy cost of
15 such guarantees for nuclear power or fossil energy facilities:
16 Provided further, That none of the loan guarantee authority
17 made available in this Act shall be available for commit-
18 ments to guarantee loans for any projects where funds, per-
19 sonnel, or property (tangible or intangible) of any Federal
20 agency, instrumentality, personnel or affiliated entity are
21 expected to be used (directly or indirectly) through acquisi-
22 tions, contracts, demonstrations, exchanges, grants, incen-
23 tives, leases, procurements, sales, other transaction author-
24 ity, or other arrangements, to support the project or to ob-
25 tain goods or services from the project: Provided further,

1 *That the previous provision shall not be interpreted as pre-*
2 *cluding the use of the loan guarantee authority in this Act*
3 *for commitment to guarantee loans for projects as a result*
4 *of such projects benefiting from (a) otherwise allowable Fed-*
5 *eral income tax benefits; (b) being located on Federal land*
6 *pursuant to a lease or right-of-way agreement for which all*
7 *consideration for all uses is (i) paid exclusively in cash,*
8 *(ii) deposited in the Treasury as offsetting receipts, and*
9 *(iii) equal to the fair market value as determined by the*
10 *head of the relevant Federal agency; (c) Federal insurance*
11 *programs, including Price-Anderson; or (d) for electric gen-*
12 *eration projects, use of transmission facilities owned or op-*
13 *erated by a Federal Power Marketing Administration or*
14 *the Tennessee Valley Authority that have been authorized,*
15 *approved, and financed independent of the project receiving*
16 *the guarantee: Provided further, That none of the loan guar-*
17 *antee authority made available in this Act shall be avail-*
18 *able for any project unless the Director of the Office of Man-*
19 *agement and Budget has certified in advance in writing*
20 *that the loan guarantee and the project comply with the*
21 *provisions under this title.*

1 *ADVANCED TECHNOLOGY VEHICLES MANUFACTURING*
2 *LOAN PROGRAM*

3 *For administrative expenses in carrying out the Ad-*
4 *vanced Technology Vehicles Manufacturing Loan Program,*
5 *\$6,000,000, to remain available until expended.*

6 *DEPARTMENTAL ADMINISTRATION*

7 *For salaries and expenses of the Department of Energy*
8 *necessary for departmental administration in carrying out*
9 *the purposes of the Department of Energy Organization Act*
10 *(42 U.S.C. 7101 et seq.), including the hire of passenger*
11 *motor vehicles and official reception and representation ex-*
12 *penses not to exceed \$30,000, \$237,623,000, to remain*
13 *available until expended, plus such additional amounts as*
14 *necessary to cover increases in the estimated amount of cost*
15 *of work for others notwithstanding the provisions of the*
16 *Anti-Deficiency Act (31 U.S.C. 1511 et seq.): Provided,*
17 *That such increases in cost of work are offset by revenue*
18 *increases of the same or greater amount, to remain avail-*
19 *able until expended: Provided further, That moneys received*
20 *by the Department for miscellaneous revenues estimated to*
21 *total \$111,883,000 in fiscal year 2012 may be retained and*
22 *used for operating expenses within this account, and may*
23 *remain available until expended, as authorized by section*
24 *201 of Public Law 95–238, notwithstanding the provisions*
25 *of 31 U.S.C. 3302: Provided further, That the sum herein*

1 *appropriated shall be reduced by the amount of miscella-*
2 *neous revenues received during 2012, and any related ap-*
3 *propriated receipt account balances remaining from prior*
4 *years' miscellaneous revenues, so as to result in a final fis-*
5 *cal year 2012 appropriation from the general fund esti-*
6 *mated at not more than \$125,740,000.*

7 *OFFICE OF THE INSPECTOR GENERAL*

8 *For necessary expenses of the Office of the Inspector*
9 *General in carrying out the provisions of the Inspector Gen-*
10 *eral Act of 1978, as amended, \$41,774,000, to remain avail-*
11 *able until expended.*

12 *ATOMIC ENERGY DEFENSE ACTIVITIES*

13 *NATIONAL NUCLEAR SECURITY ADMINISTRATION*

14 *WEAPONS ACTIVITIES*

15 *For Department of Energy expenses, including the*
16 *purchase, construction, and acquisition of plant and cap-*
17 *ital equipment and other incidental expenses necessary for*
18 *atomic energy defense weapons activities in carrying out*
19 *the purposes of the Department of Energy Organization Act*
20 *(42 U.S.C. 7101 et seq.), including the acquisition or con-*
21 *demnation of any real property or any facility or for plant*
22 *or facility acquisition, construction, or expansion, the pur-*
23 *chase of not to exceed one ambulance and one aircraft;*
24 *\$7,190,000,000, to remain available until expended.*

1 *DEFENSE NUCLEAR NONPROLIFERATION*2 *(INCLUDING RESCISSION)*

3 *For Department of Energy expenses, including the*
4 *purchase, construction, and acquisition of plant and cap-*
5 *ital equipment and other incidental expenses necessary for*
6 *defense nuclear nonproliferation activities, in carrying out*
7 *the purposes of the Department of Energy Organization Act*
8 *(42 U.S.C. 7101 et seq.), including the acquisition or con-*
9 *demnation of any real property or any facility or for plant*
10 *or facility acquisition, construction, or expansion, and the*
11 *purchase of not to exceed one passenger motor vehicle for*
12 *replacement only, \$2,404,300,000, to remain available until*
13 *expended: Provided, That of the unobligated balances avail-*
14 *able under this heading, \$21,000,000 are hereby rescinded.*

15 *NAVAL REACTORS*

16 *For Department of Energy expenses necessary for*
17 *naval reactors activities to carry out the Department of En-*
18 *ergy Organization Act (42 U.S.C. 7101 et seq.), including*
19 *the acquisition (by purchase, condemnation, construction,*
20 *or otherwise) of real property, plant, and capital equip-*
21 *ment, facilities, and facility expansion, \$1,100,000,000, to*
22 *remain available until expended.*

23 *OFFICE OF THE ADMINISTRATOR*

24 *For necessary expenses of the Office of the Adminis-*
25 *trator in the National Nuclear Security Administration, in-*

1 *cluding official reception and representation expenses not*
2 *to exceed \$12,000,\$404,000,000, to remain available until*
3 *September 30, 2013.*

4 *ENVIRONMENTAL AND OTHER DEFENSE*
5 *ACTIVITIES*

6 *DEFENSE ENVIRONMENTAL CLEANUP*

7 *For Department of Energy expenses, including the*
8 *purchase, construction, and acquisition of plant and cap-*
9 *ital equipment and other expenses necessary for atomic en-*
10 *ergy defense environmental cleanup activities in carrying*
11 *out the purposes of the Department of Energy Organization*
12 *Act (42 U.S.C. 7101 et seq.), including the acquisition or*
13 *condemnation of any real property or any facility or for*
14 *plant or facility acquisition, construction, or expansion,*
15 *and the purchase of not to exceed one ambulances and one*
16 *fire truck for replacement only, \$5,002,308,000, to remain*
17 *available until expended: Provided, That \$321,628,000 shall*
18 *be available until September 30, 2013 for program direc-*
19 *tion.*

20 *OTHER DEFENSE ACTIVITIES*

21 *For Department of Energy expenses, including the*
22 *purchase, construction, and acquisition of plant and cap-*
23 *ital equipment and other expenses, necessary for atomic en-*
24 *ergy defense, other defense activities, and classified activi-*
25 *ties, in carrying out the purposes of the Department of En-*

1 *ergy Organization Act (42 U.S.C. 7101 et seq.), including*
2 *the acquisition or condemnation of any real property or*
3 *any facility or for plant or facility acquisition, construc-*
4 *tion, or expansion, and the purchase of not to exceed 10*
5 *passenger motor vehicles for replacement only,*
6 *\$819,000,000, to remain available until expended.*

7 *POWER MARKETING ADMINISTRATION*

8 *BONNEVILLE POWER ADMINISTRATION FUND*

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

18 *OPERATION AND MAINTENANCE, SOUTHEASTERN POWER*

19 *ADMINISTRATION*

20 *For necessary expenses of operation and maintenance*
21 *of power transmission facilities and of marketing electric*
22 *power and energy, including transmission wheeling and*
23 *ancillary services pursuant to section 5 of the Flood Control*
24 *Act of 1944 (16 U.S.C. 825s), as applied to the southeastern*
25 *power area, \$8,428,000, to remain available until expended:*

1 *Provided, That notwithstanding 31 U.S.C. 3302 and section*
2 *5 of the Flood Control Act of 1944, up to \$8,428,000 col-*
3 *lected by the Southeastern Power Administration from the*
4 *sale of power and related services shall be credited to this*
5 *account as discretionary offsetting collections, to remain*
6 *available until expended for the sole purpose of funding the*
7 *annual expenses of the Southeastern Power Administration:*
8 *Provided further, That the sum herein appropriated for an-*
9 *nual expenses shall be reduced as collections are received*
10 *during the fiscal year so as to result in a final fiscal year*
11 *2012 appropriation estimated at not more than \$0: Pro-*
12 *vided further, That, notwithstanding 31 U.S.C. 3302, up*
13 *to \$100,162,000 collected by the Southeastern Power Ad-*
14 *ministration pursuant to the Flood Control Act of 1944 to*
15 *recover purchase power and wheeling expenses shall be cred-*
16 *ited to this account as offsetting collections, to remain avail-*
17 *able until expended for the sole purpose of making purchase*
18 *power and wheeling expenditures: Provided further, That*
19 *for purposes of this appropriation, annual expenses means*
20 *expenditures that are generally recovered in the same year*
21 *that they are incurred (excluding purchase power and*
22 *wheeling expenses).*

1 *OPERATION AND MAINTENANCE, SOUTHWESTERN POWER*
2 *ADMINISTRATION*

3 *For necessary expenses of operation and maintenance*
4 *of power transmission facilities and of marketing electric*
5 *power and energy, for construction and acquisition of*
6 *transmission lines, substations and appurtenant facilities,*
7 *and for administrative expenses, including official recep-*
8 *tion and representation expenses in an amount not to ex-*
9 *ceed \$1,500 in carrying out section 5 of the Flood Control*
10 *Act of 1944 (16 U.S.C. 825s), as applied to the South-*
11 *western Power Administration, \$45,010,000, to remain*
12 *available until expended: Provided, That notwithstanding*
13 *31 U.S.C. 3302 and section 5 of the Flood Control Act of*
14 *1944 (16 U.S.C. 825s), up to \$33,118,000 collected by the*
15 *Southwestern Power Administration from the sale of power*
16 *and related services shall be credited to this account as dis-*
17 *cretionary offsetting collections, to remain available until*
18 *expended, for the sole purpose of funding the annual ex-*
19 *penses of the Southwestern Power Administration: Provided*
20 *further, That the sum herein appropriated for annual ex-*
21 *penses shall be reduced as collections are received during*
22 *the fiscal year so as to result in a final fiscal year 2012*
23 *appropriation estimated at not more than \$11,892,000:*
24 *Provided further, That, notwithstanding 31 U.S.C. 3302,*
25 *up to \$40,000,000 collected by the Southwestern Power Ad-*

1 *ministration pursuant to the Flood Control Act of 1944 to*
2 *recover purchase power and wheeling expenses shall be cred-*
3 *ited to this account as offsetting collections, to remain avail-*
4 *able until expended for the sole purpose of making purchase*
5 *power and wheeling expenditures: Provided further, That*
6 *for purposes of this appropriation, annual expenses means*
7 *expenditures that are generally recovered in the same year*
8 *that they are incurred (excluding purchase power and*
9 *wheeling expenses).*

10 *CONSTRUCTION, REHABILITATION, OPERATION AND*
11 *MAINTENANCE, WESTERN AREA POWER ADMINISTRATION*

12 *For carrying out the functions authorized by title III,*
13 *section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C.*
14 *7152), and other related activities including conservation*
15 *and renewable resources programs as authorized, including*
16 *official reception and representation expenses in an amount*
17 *not to exceed \$1,500; \$285,900,000, to remain available*
18 *until expended, of which \$278,856,000 shall be derived from*
19 *the Department of the Interior Reclamation Fund: Pro-*
20 *vided, That notwithstanding 31 U.S.C. 3302, section 5 of*
21 *the Flood Control Act of 1944 (16 U.S.C. 825s), and section*
22 *1 of the Interior Department Appropriation Act, 1939 (43*
23 *U.S.C. 392a), up to \$189,932,000 collected by the Western*
24 *Area Power Administration from the sale of power and re-*
25 *lated services shall be credited to this account as discre-*

1 *tionary offsetting collections, to remain available until ex-*
2 *pended, for the sole purpose of funding the annual expenses*
3 *of the Western Area Power Administration: Provided fur-*
4 *ther, That the sum herein appropriated for annual expenses*
5 *shall be reduced as collections are received during the fiscal*
6 *year so as to result in a final fiscal year 2012 appropria-*
7 *tion estimated at not more than \$95,968,000, of which*
8 *\$88,924,000 is derived from the Reclamation Fund: Pro-*
9 *vided further, That of the amount herein appropriated, not*
10 *more than \$3,375,000 is for deposit into the Utah Reclama-*
11 *tion Mitigation and Conservation Account pursuant to title*
12 *IV of the Reclamation Projects Authorization and Adjust-*
13 *ment Act of 1992: Provided further, That notwithstanding*
14 *31 U.S.C. 3302, up to \$306,541,000 collected by the Western*
15 *Area Power Administration pursuant to the Flood Control*
16 *Act of 1944 and the Reclamation Project Act of 1939 to*
17 *recover purchase power and wheeling expenses shall be cred-*
18 *ited to this account as offsetting collections, to remain avail-*
19 *able until expended for the sole purpose of making purchase*
20 *power and wheeling expenditures: Provided further, That*
21 *for purposes of this appropriation, annual expenses means*
22 *expenditures that are generally recovered in the same year*
23 *that they are incurred (excluding purchase power and*
24 *wheeling expenses).*

1 *FALCON AND AMISTAD OPERATING AND MAINTENANCE*

2 *FUND*

3 *For operation, maintenance, and emergency costs for*
4 *the hydroelectric facilities at the Falcon and Amistad*
5 *Dams, \$4,169,000, to remain available until expended, and*
6 *to be derived from the Falcon and Amistad Operating and*
7 *Maintenance Fund of the Western Area Power Administra-*
8 *tion, as provided in section 2 of the Act of June 18, 1954*
9 *(68 Stat. 255) as amended: Provided, That notwithstanding*
10 *the provisions of that Act and of 31 U.S.C. 3302, up to*
11 *\$3,949,000 collected by the Western Area Power Adminis-*
12 *tration from the sale of power and related services from the*
13 *Falcon and Amistad Dams shall be credited to this account*
14 *as discretionary offsetting collections, to remain available*
15 *until expended for the sole purpose of funding the annual*
16 *expenses of the hydroelectric facilities of these Dams and*
17 *associated Western Area Power Administration activities:*
18 *Provided further, That the sum herein appropriated for an-*
19 *ual expenses shall be reduced as collections are received*
20 *during the fiscal year so as to result in a final fiscal year*
21 *2012 appropriation estimated at not more than \$220,000:*
22 *Provided further, That for purposes of this appropriation,*
23 *annual expenses means expenditures that are generally re-*
24 *covered in the same year that they are incurred.*

1 *FEDERAL ENERGY REGULATORY COMMISSION*2 *SALARIES AND EXPENSES*

3 *For necessary expenses of the Federal Energy Regu-*
4 *latory Commission to carry out the provisions of the De-*
5 *partment of Energy Organization Act (42 U.S.C. 7101 et*
6 *seq.), including services as authorized by 5 U.S.C. 3109,*
7 *the hire of passenger motor vehicles, and official reception*
8 *and representation expenses not to exceed*
9 *\$3,000,\$304,600,000, to remain available until expended:*
10 *Provided, That notwithstanding any other provision of law,*
11 *not to exceed \$304,600,000 of revenues from fees and annual*
12 *charges, and other services and collections in fiscal year*
13 *2012 shall be retained and used for necessary expenses in*
14 *this account, and shall remain available until expended:*
15 *Provided further, That the sum herein appropriated from*
16 *the general fund shall be reduced as revenues are received*
17 *during fiscal year 2012 so as to result in a final fiscal year*
18 *2012 appropriation from the general fund estimated at not*
19 *more than \$0: Provided further, That not later than 180*
20 *days after the date of enactment of this Act, the Commission*
21 *shall issue such regulations as are necessary to clarify that*
22 *a State may establish rates for the wholesale sale of electric*
23 *energy in interstate commerce pursuant to the Public Util-*
24 *ity Regulatory Policies Act of 1978 such that those rates*
25 *shall not unduly discriminate against the qualifying cogen-*

1 *eration facility or qualifying small power production facil-*
2 *ity selling the electric energy or exceed the costs to produce*
3 *and deliver the electric energy, as determined for the specific*
4 *technology at issue.*

5 **GENERAL PROVISIONS—DEPARTMENT OF**
6 **ENERGY**

7 *SEC. 301. The unexpended balances of prior appro-*
8 *priations provided for activities in this Act may be avail-*
9 *able to the same appropriation accounts for such activities*
10 *established pursuant to this title. Available balances may*
11 *be merged with funds in the applicable established accounts*
12 *and thereafter may be accounted for as one fund for the*
13 *same time period as originally enacted.*

14 *SEC. 302. When the Department of Energy makes a*
15 *user facility available to universities or other potential*
16 *users, or seeks input from universities or other potential*
17 *users regarding significant characteristics or equipment in*
18 *a user facility or a proposed user facility, the Department*
19 *shall ensure broad public notice of such availability or such*
20 *need for input to universities and other potential users.*
21 *When the Department of Energy considers the participation*
22 *of a university or other potential user as a formal partner*
23 *in the establishment or operation of a user facility, the De-*
24 *partment shall employ full and open competition in select-*

1 *ing such a partner. For purposes of this section, the term*
2 *“user facility” includes, but is not limited to:*

3 *(1) a user facility as described in section*
4 *2203(a)(2) of the Energy Policy Act of 1992 (42*
5 *U.S.C. 13503(a)(2));*

6 *(2) a National Nuclear Security Administration*
7 *Defense Programs Technology Deployment Center/*
8 *User Facility; and*

9 *(3) any other Departmental facility designated*
10 *by the Department as a user facility.*

11 *SEC. 303. Funds appropriated by this or any other*
12 *Act, or made available by the transfer of funds in this Act,*
13 *for intelligence activities are deemed to be specifically au-*
14 *thorized by the Congress for purposes of section 504 of the*
15 *National Security Act of 1947 (50 U.S.C. 414) during fiscal*
16 *year 2012 until the enactment of the Intelligence Authoriza-*
17 *tion Act for fiscal year 2012.*

18 *SEC. 304. (a) SUBMISSION TO CONGRESS.—The Sec-*
19 *retary of Energy shall submit to Congress each year, at the*
20 *time that the President’s budget is submitted to Congress*
21 *that year under section 1105(a) of title 31, United States*
22 *Code, a future-years energy program reflecting the esti-*
23 *mated expenditures and proposed appropriations included*
24 *in that budget. Any such future-years energy program shall*
25 *cover the fiscal year with respect to which the budget is sub-*

1 *mitted and at least the four succeeding fiscal years. A fu-*
2 *ture-years energy program shall be included in the fiscal*
3 *year 2014 budget submission to Congress and every fiscal*
4 *year thereafter.*

5 (b) *ELEMENTS.*—*Each future-years energy program*
6 *shall contain the following:*

7 (1) *The estimated expenditures and proposed ap-*
8 *propriations necessary to support programs, projects,*
9 *and activities of the Secretary of Energy during the*
10 *5-fiscal year period covered by the program, expressed*
11 *in a level of detail comparable to that contained in*
12 *the budget submitted by the President to Congress*
13 *under section 1105 of title 31, United States Code.*

14 (2) *The estimated expenditures and proposed ap-*
15 *propriations shaped by high-level, prioritized pro-*
16 *gram and budgetary guidance that is consistent with*
17 *the administration’s policies and out year budget pro-*
18 *jections and reviewed by DOE’s senior leadership to*
19 *ensure that the future-years energy program is con-*
20 *sistent and congruent with previously established pro-*
21 *gram and budgetary guidance.*

22 (3) *A description of the anticipated workload re-*
23 *quirements for each DOE national laboratory during*
24 *the 5-fiscal year period.*

25 (c) *CONSISTENCY IN BUDGETING.*—

1 (1) *The Secretary of Energy shall ensure that*
2 *amounts described in subparagraph (A) of paragraph*
3 *(2) for any fiscal year are consistent with amounts*
4 *described in subparagraph (B) of paragraph (2) for*
5 *that fiscal year.*

6 (2) *Amounts referred to in paragraph (1) are the*
7 *following:*

8 (A) *The amounts specified in program and*
9 *budget information submitted to Congress by the*
10 *Secretary of Energy in support of expenditure*
11 *estimates and proposed appropriations in the*
12 *budget submitted to Congress by the President*
13 *under section 1105(a) of title 31, United States*
14 *Code, for any fiscal year, as shown in the future-*
15 *years energy program submitted pursuant to*
16 *subsection (a).*

17 (B) *The total amounts of estimated expendi-*
18 *tures and proposed appropriations necessary to*
19 *support the programs, projects, and activities of*
20 *the administration included pursuant to para-*
21 *graph (5) of section 1105(a) of such title in the*
22 *budget submitted to Congress under that section*
23 *for any fiscal year.*

24 *SEC. 305. Section 1702 of the Energy Policy Act of*
25 *2005 (42 U.S.C. 16512) is amended—*

1 (1) *by striking subsection (b) and inserting the*
2 *following:*

3 “(b) *SPECIFIC APPROPRIATION OR CONTRIBUTION.—*

4 “(1) *IN GENERAL.—No guarantee shall be made*
5 *unless—*

6 “(A) *an appropriation for the cost of the*
7 *guarantee has been made;*

8 “(B) *the Secretary has received from the*
9 *borrower a payment in full for the cost of the*
10 *guarantee and deposited the payment into the*
11 *Treasury; or*

12 “(C) *a combination of one or more appro-*
13 *priations under subparagraph (A) and one or*
14 *more payments from the borrower under sub-*
15 *paragraph (B) has been made that is sufficient*
16 *to cover the cost of the guarantee.”.*

17 *SEC. 306. Plant or construction projects for which*
18 *amounts are made available under this and subsequent ap-*
19 *propriation Acts with a current estimated cost of less than*
20 *\$10,000,000 are considered for purposes of section 4703 of*
21 *Public Law 107–314 as a plant project for which the ap-*
22 *proved total estimated cost does not exceed the minor con-*
23 *struction threshold and for purposes of section 4704 of Pub-*
24 *lic Law 107–314 as a construction project with a current*
25 *estimated cost of less than a minor construction threshold.*

1 *SEC. 311. (a) Any determination (including a deter-*
2 *mination made prior to the date of enactment of this Act)*
3 *by the Secretary pursuant to section 3112(d)(2)(B) of the*
4 *USEC Privatization Act (110 Stat. 1321–335), as amend-*
5 *ed, that the sale or transfer of uranium will not have an*
6 *adverse material impact on the domestic uranium mining,*
7 *conversion, or enrichment industry shall be valid for not*
8 *more than 2 calendar years subsequent to such determina-*
9 *tion.*

10 *(b) Not less than 30 days prior to the transfer, sale,*
11 *barter, distribution, or other provision of uranium in any*
12 *form for the purpose of accelerating cleanup at a Federal*
13 *site, the Secretary shall notify the House and Senate Com-*
14 *mittees on Appropriations of the following:*

15 *(1) the amount of uranium to be transferred,*
16 *sold, bartered, distributed, or otherwise provided;*

17 *(2) an estimate by the Secretary of the gross*
18 *market value of the uranium on the expected date of*
19 *the transfer, sale, barter, distribution, or other provi-*
20 *sion of the uranium;*

21 *(3) the expected date of transfer, sale, barter, dis-*
22 *tribution, or other provision of the uranium;*

23 *(4) the recipient of the uranium; and*

24 *(5) the value of the services the Secretary expects*
25 *to receive in exchange for the uranium, including any*

1 *strumentality of the United States Government, except pur-*
2 *suant to a transfer made by, or transfer authority provided*
3 *in this Act or any other appropriation Act.*

4 *TITLE VI*

5 *ADDITIONAL FUNDING FOR DISASTER RELIEF*

6 *DEPARTMENT OF DEFENSE—CIVIL*

7 *DEPARTMENT OF THE ARMY*

8 *CORPS OF ENGINEERS—CIVIL*

9 *MISSISSIPPI RIVER AND TRIBUTARIES*

10 *For an additional amount for “Mississippi River and*
11 *Tributaries” for expenses resulting from a major disaster*
12 *designation pursuant to the Robert T. Stafford Disaster Re-*
13 *lief and Emergency Assistance Act (42 U.S.C. 5122(2)),*
14 *\$890,177,300, to remain available until expended for repair*
15 *of damages to Federal projects: Provided, That the Assistant*
16 *Secretary of the Army for Civil Works shall provide a*
17 *monthly report to the Committees on Appropriations of the*
18 *House of Representatives and the Senate detailing the allo-*
19 *cation and obligation of these funds, beginning not later*
20 *than 60 days after enactment of this Act: Provided further,*
21 *That the amount in this paragraph is designated by Con-*
22 *gress as being for disaster relief pursuant to section*
23 *251(b)(2)(D) of the Balanced Budget and Emergency Def-*
24 *icit Control Act of 1985 (Public Law 99–177), as amended.*

1 *support emergency operations, repair and other activities*
2 *in response to recent natural disasters as authorized by law,*
3 *\$66,387,000, to remain available until expended: Provided,*
4 *That the Assistant Secretary of the Army for Civil Works*
5 *shall provide a monthly report to the Committees on Appro-*
6 *priations of the House of Representatives and the Senate*
7 *detailing the allocation and obligation of these funds, begin-*
8 *ning not later than 60 days after enactment of this Act:*
9 *Provided further, That the amount in this paragraph is des-*
10 *ignated by Congress as being for disaster relief pursuant*
11 *to section 251(b)(2)(D) of the Balanced Budget and Emer-*
12 *gency Deficit Control Act of 1985 (Public Law 99–177),*
13 *as amended.*

14 *This Act may be cited as the “Energy and Water De-*
15 *velopment and Related Agencies Appropriations Act,*
16 *2012”.*

Calendar No. 157

112TH CONGRESS
1ST SESSION

H. R. 2354

[Report No. 112-75]

AN ACT

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

JULY 18, 2011

Received; read twice and referred to the Committee on
Appropriations

SEPTEMBER 7, 2011

Reported with an amendment